

UNIVERSITY OF NAIROBI



INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**IMPLICATIONS OF ARMING PRIVATE SECURITY GUARDS ON NATIONAL
SECURITY MANAGEMENT IN EAST AFRICA: A COMPARISON BETWEEN KENYA
AND UGANDA**

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DECLARATION

I, the undersigned, hereby declare that this paper is my original work and has not been presented for the award of a degree in any other University.

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DEDICATION

This project is dedicated to my family for being there for me all the time and for the immeasurable support they gave me during the study period.

ACKNOWLEDGMENT

I acknowledge the divine grace of the Almighty God in blessing me with the courage, strength, and determination in undertaking this exercise. Secondly, I would like to express my sincere and special gratitude for the invaluable support given to me by my supervisor Dr. Martin Ouma who has patiently offered me unwavering support and assistance that has led to the successful completion of this research project.

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LIST OF ABBREVIATIONS

CID- Criminal Investigation Department

DPC- Division Police Commander

IGP- Inspector General of Police

NGO- Non-Governmental Organizations

PMSC- private Military and security company

PSC- Private Security Company

PSO- Private Security organizations

PSRA- Private Security Regulation Authority

RPC- Regional police commander

UK- United Kingdom

US- United States

VIP- Very Important Persons

Abstract

This study investigates the implications of arming private security guards on national security management in East Africa. This comes at a time when Kenya and East Africa at large are facing various security challenges, and the Kenyan government has passed laws allowing the arming of private security guards. The arming of private security guards is a significant security move that will no doubt impact the management of security in Kenya. This provides an affluent area of study in terms of the management of security and, in particular, the fight against terrorism. Arming guards is a massive shift from the traditional baton-bearing; hence this process is made impulsively even in an ideal situation. The purpose of this study was to provide an insight into how arming private security guards will impact national security. As per the objectives, the study investigated the concept of private security guards in Kenya and Uganda, the implications of arming private security guards to national security, and the mechanisms that can be used to curb negative effects that might arise from arming private security guards. The move to arm private security guards in Kenya has implications on the national security management in Kenya. Arming private security will have security impacts, legal impacts, economic as well as social impacts. The implications of arming private security in Kenya are both positive and negative. Security implications include the proliferation of arms, misuse of arms, and gun-related crimes. Measure to curb these negative impacts is that the private security guards ought to be well remunerated. There is also the need to choose people of certain codes of conduct to safeguard against misuse of the weapons issued to them.

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CHAPTER ONE

INTRODUCTION AND BACKGROUND OF THE STUDY

1.0 Introduction

The study sought to investigate the implications of arming private security guards on national security management in East Africa. The study comes at a time when Kenya is facing various security challenges, and the government has passed laws allowing the arming of private security guards. The prospect of arming private security guards is, therefore, critical security phenomena that need to be looked into. This chapter, therefore, discusses the background of the study, stated the problem statement, provided the objectives, the research question literature and empirical review, hypotheses, theoretical framework, and the research methodology.

1.1 Background to the study

The modern world has witnessed fundamental changes in the provision of security. This has seen a shift from the traditional security approach to the broader security approach that now encompasses several actors, among them the private security companies. The sector of private security is fast growing and is becoming one of the largest employers worldwide. The evolution of private security has been boosted by the changing nature of threats and crime. This has further been fueled by the fact that government provision of security services has not kept pace with the public perception of increased threats and crime.¹

States have the primary duty of providing security and protection of their citizens and everyone within its borders and promoting the prevention of crime. However, With the increased rate of crime, a number of citizens turn to private security as a means of ensuring their safety and that of

¹ Abrahamsen, R., & Williams M, The Globalization of private security: Country report: (Nigeria Cambridge, UK: Cambridge University Press, 2005)

their properties. This demand is a result of the failure of states to provide adequate security services for their citizens.

In most cases, private security is regarded as means to crime prevention, and, as such, they are involved in the normal efforts of limiting, preventing, and controlling crime and disorder within their assigned areas. It can be said, therefore, that private security has been undertaking tasks similar to that of conventional policing. In this sense, private security has been satisfying the needs and demands of their clients who are willing and able to pay for their security services.

Bayley and Shearing observe that in recent years, the size and role of private security firms have been on the rise dramatically worldwide, as the development of private security industry is fueled by the constantly growing demand for their services. The primary role of private security is seen as providing security services to maximize profit since it is a business venture. However, the boundary between public law enforcement agencies and private security is waning. This is because private security is now increasingly taking up the tasks previously performed by the police.²

Shaw argues that private security can play an even greater role in controlling, limiting, and preventing crime.³ He, therefore, advocates for a system where the police and private security can exchange information in order to deliver better security services to the nation. Further, he sees the potential and competence of both the police and private security working together to form a good partnership that will lead to the effective delivery of security services.⁴

² Bayley, D. & Shearing, D., *The new structure of policing: description, conceptualization and research agenda*. (Washington, DC: U.S. Department of Justice, 2001).

³ Shaw, M., *Crime and policing in post-apartheid South Africa: transforming under fire*. Bloomington, (Ind.: Indiana University Press, 2002)

⁴ Kamenju A, and Wairagu, F. *Private security in Kenya*. (Security Research and Information Centre (SRIC), Nairobi, 2004)

The recent move by the Kenyan government to arm private security is what necessitates this study. The study analyzes the implications of arming private security guards on national security. According to an article on the Star October 2019, the Senate of Kenya discussed the conditions of private security guards and considered whether they should be armed. The argument of the Kenyan senate was that the guards should be better paid as they risk their lives while guarding installations and individuals in dangerous places at all hours.⁵

The article opines that the move to address the welfare of the guards should not distract the country from the urgent necessity to allow selected security guards to be armed, just like their counterparts in Uganda. It further notes that private security guards are defenseless against armed robbers. This was analysed to be unfair to them and the people they are guarding. The senate finally concluded that the risk of arming security guards is minimal compared to the benefits.⁶

1.2 Statement of the Problem

The growth and development of private security in Kenya and Uganda have come about due to an increase in threats and criminal activities and the failure of public law enforcement agencies to offer sufficient security to all citizens. The anxiety of the citizens of the two countries regarding their safety has been extremely high, and the fear has led to the progression of the public security sector in these countries.

Both the private security and public law enforcement officers have the responsibility of preventing crime, ensuring safety, and maintaining order within a society. Whereas the public

⁵ <https://www.the-star.co.ke/opinion/leader/2019-10-30-private-security-guards-should-be-safely-armed>, accessed on 19 December 2020.

⁶ Ibid

security agencies work on behalf of the government, private security is driven by a profit motive since they are business-oriented.⁷

The main query that arises, therefore, is the effect of arming private security guards and its impact on national security. Whereas there exist a a number of work that focus on the growth and development of the private security, little touches on the impact of arming private security guards in Kenya. This lack of studies in the subject area is what necessitated the study to analyze the impact the move by the government to arm private security guards will have on national security. The move by the government to arm the national security guards is equally an interesting area of study. As a result, the research provides an insight into how arming private security guards will impact national security.

1.3 Research Question

1. What is the concept of private security guard in Kenya and Uganda?
2. What are the implications of arming private security guards on national security?
3. What are some of the mechanisms that have been put in place to curb the negative effects of arming private security guards?

1.4 Objectives of the Study

The study has been guided by the objectives listed below:

1. To examine the concept of private security guards in Kenya and Uganda.
2. To investigate the implications of arming private security guards to national security.
3. To examine mechanisms that are being used to curb negative implications that might arise from arming private security guards.

⁷Strom,K The Private Security Industry: A Review of the Definitions: RTI International 3040 Cornwallis Road Research Triangle Park.

1.5 Literature Review

This section of the study gives an overview of the existing literature that is relevant to the study.

The literature is divided thematically. Theoretical and empirical reviews.

1.5.1 Theoretical literature review

The theoretical review consists of an overview of relevant theories that support this study.

Securitization theory

The Copenhagen School of thought advanced the debate on securitization and the concept of securitization theory. This school of thought made a significant contribution to the discussion regarding the meaning of security. The main argument of the Copenhagen school in securitization theory is that security is ultimately an outcome of a particular social process as opposed to an objective condition.⁸ The idea of this theory developed from the speech act theory and challenged the notion that threats to security exist independent of somebody representing it per se. Instead, the Copenhagen school argues that there exist choices to issues characterized as security threats. To this end, a security threat is identified due to the subjective perception of various people on security threats. According to Weaver, nothing could be a security issue by itself; instead, it's a problem that solely becomes a security issue if somebody labels it per se.⁹

Hierarchy of Human Needs Theory

The hierarchy of need theory was put forth by Abraham Maslow in 1943. The Maslow's hierarchy of needs comprise a five-tier model of human needs or desires that are usually

⁸ Buzan, B., Waever, O., de Wilde, J., Security: A New Framework for Analysis. (Lynne Rienner, London, 1998)

⁹ <https://www.e-ir.info/2015/12/14/what-is-security-securitization-theory-and-its-application-in-turkey>, accessed on 20 January 2020.

illustrated as hierarchical levels within a pyramid. Maslow integrated two distinct groupings, deficiency needs that comprise the first four levels and growth desires or needs. Deprivation at every level should be fulfilled before an individual proceed to the ensuing level, leading to the upper desires solely being thought about once the lower or additional basic desires are realised. Once these lower needs are satisfied, an individual can then achieve creativity, fulfillment, and realization of their potential. However, if lower-level needs aren't any longer being met, the person can temporally refocus on such lower needs and not progress to the other levels. Physiological motives are involved with human survival—breathing, physiological condition, water, sleep, food, and excretion. Once these physiological needs are fulfilled, safety motives come into play. The protection level is usually given as safety and security, with an associate in achieving individual's desires for private security and lengthening to aspects like order and management, money security, job security, health, and well-being.¹⁰

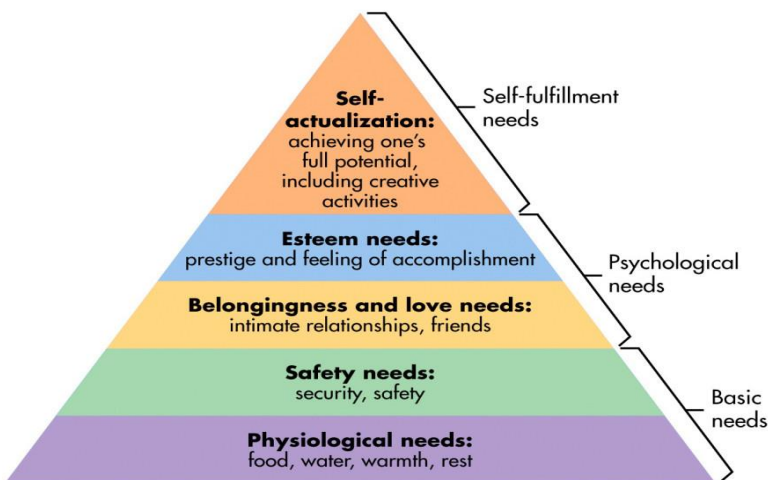


Figure 1 Maslow's Pyramid of Needs

¹⁰ Gambrel, P. & Cianci, R., Maslow's Hierarchy of Needs: Does it apply in a collectivist culture. (Journal of Applied Management and Entrepreneurship, 2003)

As demonstrated by Maslow's hierarchy of human needs, safety and security are primary needs for an individual. It is very difficult for individuals to cooperate when they do not feel safe. It is, therefore, safe to conclude that security should be an important focus within the state. This explains why individuals turn to private security whenever they feel the state is unable to offer security.

1.5.2 Empirical Literature review

This section reviews empirical literature around the three specific objectives of this research.

This helps the study to identify the critical knowledge gap.

The Concept of Private Security services

Kakalik & Wildhom defines private security firms as privately funded business entities with the aim of providing security-related services to contracted clients. These services range from protecting persons or properties from various hazards. Private security is thus provided by those organizations and individuals other than the public law enforcement agencies. These organizations and individuals are primarily engaged in preventing crime, loss, or harm to specific individuals, organizations, or facilities.¹¹ According to Kakalik & Wildhom, private security can be described as all forms of private organizations and individuals that offer all types of services related to security.

Steden and Sarre observe that the terms private policing and private security are two terms that are sometimes used interchangeably. However, they define private policing as contract security offered to organizations by commercial providers under contract with the main aim of securing

¹¹ Kakalik, J. S., & Wildhom, Private police in the United States. Santa Monica. CA: Rand. Retrieved from <http://www.rand.org/pubs/reports/2006/R869.pdf> on 05 November 2019.

and protecting their clients' assets and personnel.¹² On the other hand, private security is described as in-house security meant to meet company or organization's own internal security needs. The authors observe that the growth of private security has been less dramatic but substantial nonetheless. This has been interpreted as reflecting the disparities between what the government promises and delivers. In this case, the government's provision of services has not kept pace with public perceptions of an increased crime threat. This, they argue, has generated demand and need for private security services.¹³

Leonard G. Cooke analyzes what necessitated the rise of public security. In his analysis, he argues that public law enforcement agencies have the responsibility of ensuring the safety and security of individuals through crime prevention and response activities. He notes, however, that public law enforcement faces various difficulties and challenges in ensuring safety for all. With public law enforcement agencies stretched thin, individuals are forced to consider private security as an alternative to ensuring their safety and security.¹⁴

Abrahamsen and Williams looked at how the tremendous development and globalization of the private security sector have presented complicated challenges both politically and analytically. Particularly, the evolution of private-public security networks easily challenges the monopoly of public security agencies of the free state in the provision of security. The growth of worldwide private security organizations, and the presence of private-public, local-global security networks, is now more than ever evident. This is as part of growing significant global governance

¹²Steden, R and Sarre R 'The Growth of Private Security: (Trends in the European Union 'Security Journal, 2007.

¹³ Ibid.

¹⁴ Cooke, L.G; Hahn,L.R, " The missing link in homeland security" (in the police chief, 2006)

structures, which has led to the transformation and shifting of the role of the state and the nature and point of authority.¹⁵

According to the authors, it is evident that private security raises important normative and political issues. However, these debates must move forward, having in mind, the distinction between public and private, international and the local security. During the last three decades security has undergone immense transformations. There is great evidence that many sub-Saharan Africa countries have private security establishments integrated into advanced networks of authority, which counter any distinction of private-public and local-global authority.¹⁶

Diphorn conducted a relative evaluation of private security regulation in both Kenya and South Africa. He notes that the case of South Africa, there exists an encompassing state regulatory framework but uncoordinated self-regulation with numerous agency-level regulatory mechanisms. On the other hand, in Kenya, a state regulatory framework has been drafted. However, its implementation is yet to take effect hence leaving the security industry to exercise self-regulation, either through the employers' associations or by individual companies themselves. As the South Africa security industry is more organized, one could argue that its context is more efficient because of the encompassing state regulatory framework. In South Africa, measures put in place by private companies are prevalent for security officials as compared to measures enforced by the state. In Kenya, though guided by state initiatives, self-regulation efforts take the most prominent forms.¹⁷

¹⁵ Abrahamsen, R & Williams M., *Securing the City: Private Security Companies and Non-State Authority in Global Governance*, (University of Wales, Aberystwyth, UK, 2007)

¹⁶ Ibid.

¹⁷ Diphorn, T "Surveillance of the Surveillers": Regulation of the Private Security Industry in South Africa and Kenya. (*African Studies Review*, 2016)

The article argues that South Africa and other African countries, private security officers, are often armed, but the same is not true in Kenya. The rationale for arming private security companies, therefore, comes up where some companies have supported the move to arm security officers, particularly the ones who work in sectors like alarm response and cash-in-transit. Business owners felt the need for additional protection due to the high amount of risk faced by officers in their line of duty. The mostly referenced examples are the Westgate and Garissa incidents that had several casualties, which business owners feel could have been prevented if security officers had been armed.¹⁸

According to a study from the institute for security studies, Uganda lacks the adequate number of police to ensure security for all. The police force in Uganda is also coupled with under facilitation, thereby making it ineffective to provide security for all. This has led to the rise of private security companies to fill up the security deficit.

In Uganda and the region in general, there is a proliferation of small arms. These arms have been used to cause harm to a number of people, among other criminal activities. This has necessitated the demand for private security services.¹⁹

The effect of arming security guards

Business and Human right resource center, the Daily Monitor, Kato Joseph Published an article on "Why are guards on a shooting spree?" where he talked about the killing of innocent civilians by armed private security guards in Uganda. He asserts that only a month into 2019, five incidents involving private security guards shooting their colleagues or civilians were reported. This he highlights as a growing concern in Uganda. In most cases, the reports from the Police are

¹⁸ Ibid

¹⁹ <https://issafrica.org/chapter-one-private-and-public-security-in-uganda-solomon-wilson-kirunda>, accessed on 27 December 2019.

that the shootings are in self-defense. Incidents of guards killing people have not only happened in Kampala which is the capital city but also upcountry. The author argues that the arming of private security guards in Uganda needs to be relooked into as the private security guards are becoming security threats on their own. Police credited most of the incidents to alcoholism, stress, poor pay, provocation by civilians, unfavorable working condition, gaps in supervision by the officer's employers, and infidelity. These conditions point out to a deep-lying issues that needs to be solved amicably.²⁰

A state has the responsibility of providing and ensuring the security and protection of its citizens. This is according to an article on the new vision web. The state must, therefore, not relegate this fundamental function to private security companies who are mostly motivated by profits. If the state does so, then it will be absconding her duty of ensuring that her citizens are safe. This will leave the citizens at the mercy of selfish and criminally-minded individuals.

As a result, citizens become susceptible to the numerous threats that originate from inadequate or lack of professional training on matters of security, which is most common within the private security sector. The lack of centralized control and command can lead to serious public security threat in the near future.²¹

Spaseski notes that in recent times, private security has constituted an integral part of the overall security of most, if not all, country. His argument is premised on the fact that security is the most basic interest of a state. Therefore, the security system of any given country is structured on the basis of the state's laws and Constitution. He notes that states dictate the rights, duties, and responsibilities of any security system in order to build a secure and stable system that is

²⁰ <https://www.business-humanrights.org/en/uganda-at-least-five-civilians-killed-by-armed-private-security-guards-in-separate-incidents-in-2019>

²¹ https://www.newvision.co.ug/new_vision/news/1427092/private-security-guards-uganda-national-public-security-architecture, accessed on 29 December 2019.

essential for the successful functioning of the state.²² He further argues that private security hence functions as a subsystem states security system. However, in cases where there are contradictions between legislative requirements and the practicalities of security provision, there can be unforeseen and unintended consequences. In today's world, security is key; hence the provision of security services is viewed by the public as a high priority. Citizens hence are willing to invest in ensuring their security and safety heavily. In this sense, the rise of private security is necessitated by the needs of citizens to feel safe and secured.²³

Mkutu and Sabala argue that Kenya has failed in its mandate to provide security for the people, and this has, in turn, led to the rise of private security companies (PSCs) in the last two decades. They argue that the lack of policies and regulations to guide the operations and registrations of the PSCs has in itself posed a security threat. As the inefficiency and incapacity of the police to tackle criminality continues to explain the mushrooming of the PSC and vigilante groups, public confidence in state authority and their capability of acting against crime remains among the crucial factors to consider in debates surrounding operations of the PSCs.²⁴ As it is outlined, of great interest to private businesses is the cost of hiring PSCs, which proves to be affordable as compared to contracting security officials of the state. As PSCs are driven by making profits, there exists a risk that they will act contrary to the wider public interest and, in some cases, contrary to the interest of their own clients. The authors argue that the state has little control and

²² Spaseski J., Private Security as an Integral Part of a Uniform Security System. Private Policing and Security - Relationships between the Private and Public security

²³ *ibid*

²⁴ Kennedy A and Kizito S Private Security Companies in Kenya and Dilemmas for Security, *Journal of Contemporary African Studies*, 2007.

insights into the workings of PSCs. Thus, it is likely that the country will run a risk of the private security industry upholding power upon its clients and eventually upon the state.²⁵

Mechanisms of curbing the negative implication arising from arming private security guards

An article by Som tribune daily horn news indicates that according to Uganda's Ministry of Internal Affairs, private firms have access to approximately 16,000 weapons. The minister, however, states that there is no apology for mishandling firearms and doing mistakes. Therefore, controls have to be followed strictly, and carelessness avoided to prevent misuse of firearms. The offense is unforgivable.

According to him, the police are heavily involved whenever there are cases of theft or misuse of fire-arm. Based on updated law, the police regulate how guns are used and supplied.²⁶ All security guards in Uganda are also required by law to register with the Inspector General of Police before they can be recruited by any private security organization. The certification for this registration must be renewed by the security guards annually.

Gaps in the Literature review

From the above literature, the study has identified that the concept of private security guards both in Kenya and Uganda has not been adequately researched. It is also evident that the effects of arming private security guards to national security have not been adequately analyzed by scholars. This study will, therefore, address these two areas and also examine the mechanisms for curbing negative implications to arming private security guards.

²⁵ Ibid.

²⁶ <https://www.somtribune.com/2019/01/29/should-private-security-guards-have-guns-sobering-lessons-from-uganda/>

1.6 Research Hypotheses

H₁: Private security guards play an integral part in providing security in Kenya and Uganda

H₁: If unlegislated, arming private security guards might lead to unintended consequences.

H₀: Through training and proper legislation, arming private security guards will not improve the country's security.

1.7 Justification of the Study

This study is important, given that it is coming at a time when Kenya is grappling with insecurity issues and when the government is debating about the modalities of arming private security guards.

1.7.1 Policy justification

There is a need to understand this growing sector and to analyze what the move to arm the private security guards means for the national security of the country. This study will assist the policymakers involved in national security management to understand issues at stake on the arming of private security guards. This will help in modifying existing strategies or formulating new policies and frameworks that will improve national security, especially in the management of armed security guards in order to have a positive impact on the citizenry.

1.7.2 Academic Justification

The study will generate new and useful knowledge in the fields of academia, such as strategic studies for researchers, students, and lecturers as a source of information.

1.7.3 Justification to the general public

This study comes at a time when Kenya is faced with myriad security challenges ranging from robbery, locust menace, covid-19 pandemic, cyber crimes, petty crimes, violent extremism to

terrorism. Terrorists and robbers have targeted social places like banks, malls, and schools where the guards manning these areas are easily outdone by the robbers or terrorists because they are unarmed while the robbers and terrorists possess sophisticated weapons. In these incidents it usually takes time for the security agencies to respond, arming the private security guards; hence is seen as a quick way to deter robbers and terrorist(s). The public hence will be well informed about the prospects of arming private security guards.

1.8 Theoretical framework

This study has utilized both the theory of structural theory of conflict and critical security theory. According to structuralism theory, the object world exists due to three distinct conditions: The peaceful condition that is free from any disturbance, the non-peaceful condition where there exist conditions of war and latent security on the form or real violent conflict. According to the theory, the created structures result in the emergence of class divisions between the haves and the have-nots. It further explains that class division leads to a threat of fear and insecurity by the dominant class who, in turn, seek state protection from the supposed threats to their wealth. And that when the state is unable to provide such required security, a vacuum is created which, will be occupied by private security initiatives. The theory however, ignores the relative nature of the term 'order'. There may be several varying order types, which may not be automatically mutually exclusive. The order type that the state is trying to warrant may vary from the type of order businesses, townships, affluent suburbs, and corporations wish to establish or preserve. Varying order types may necessitate varying types of policing. Globally, governments are starting to explore the effects of the growing private apparatus for policing. However, many have voiced concerns about the alarming increase in the capabilities of private policing, especially in the developing world. The creation of private policing is a response to the specific concerns and

needs of individuals paying for such services. However, the proliferation of private security providers has raised concerns on professionalism, competence and legality of private security providers as compared to the traditional public security with many demanding for the regulation of the industry by the government.

Another important theory is the critical approach to security, which was developed in a conference that was held in Canada in the mid-1990s. The basis of the theory is critical desires, which try to question the traditional methods of security. According to the theory, a nation cannot be sufficiently referenced as an object of security, and it is important to think of the sources and definition of security and insecurity in a broader perspective different from the traditionalist approach to security. The critical theory of security was developed based on the above challenges. This theory proposes the development of answers for questions regarding existing conditions and the necessary knowledge for evaluating and establishing whether these conditions pose security issues and threats. The answers also seek to provide solutions to the perceived threats.²⁷

The critical approach to security fully supports the basis of this study. Through the use of a critical analysis, a government can evaluate the present conditions that state alone cannot guarantee the security and safety of every individual from all threats. Therefore, they must be alive to the growing importance of private security companies and use of private security guards as a source of security.

This has led to different governments across the world arming the private security guards in order to help curb insecurity and in turn enhancing their national security. Uganda for example

²⁷ <https://www.paypervids.com/constructivist-copenhagen-critical-approaches-security>, accessed on 07 January 2020.

which has armed their private security guards since the late 1990s has witnessed fewer incidents of terrorist attacks compared to Kenya with unarmed security guards. Therefore, the rationale of arming private security guards is a critical security approach by the government to ensure the safety of her citizens while at the same time having in mind the national security interest that will be met by arming the private security guards.

1.9 Research methodology

The methodology of the study is important in understanding how data and information were obtained.

1.9.1 Research design

A research design entails the plan, structure and strategy to be utilised in investigating a research problem and obtaining answers to the research question.²⁸ The study adopted a mix research design of qualitative and quantitative methods. The study employed a descriptive research design. The aim of this approach was to collect data without the manipulation of the respondents or research variables on implications of arming private security guards.²⁹

1.9.2 Target Population

A population can be defined as a complete group of entities or elements sharing some common characteristics.³⁰ This study targeted government officials, heads of private security firms, private security guards and the general public within Kenya and Uganda. (See Table 1.1)

²⁸ Kombo, K. K and Tromp, D., Proposal and thesis Writing; an introduction, (Don Bosco printing press, 2006)

²⁹ Ibid

³⁰ Kothari, C. R., Research Methodology: Methods and Techniques. (New Age International (P) Ltd Publishers., 2004)

1.9.3 Data collection procedure

The study relied on both the secondary and primary sources of data. Secondary data was obtained from scholarly literatures (both published and unpublished) from online sources, books, journals and articles from libraries.

The primary data was collected from interviews from the general public, private security guards and public law enforcement personnel. Interviews with questionnaire guide covering all study variables was used to get information from the general public.

1.9.4 Sampling and sampling procedure

The study used both simple random and purposive sampling. Purposive sampling is where the researcher selects sample that is judged to be informative to the study. This was used to sample government officials and heads of private security firms. For the general public and private security guards the study used simple random sampling methods. Simple random sampling is where each individual in the target population gets equal opportunity of being sampled.

Sampling size

Sample size was arrived at using Mugenda and Mugenda Sample calculation of $n' = \frac{n}{1 + n/N}$

2.

p - 0.5,

q - 0.5,

z -1.96

e = 0.05

Sample will be arrived at through $n' = n/1 + n/N$

n' =adjusted minimum sample size,

n = Calculated minimum sample size.

$$n' = 384 /1 +384 /1000 = 147$$

Table 1.1: Target Population, Sample Size and Sampling Procedure

Ser	Target Group	Kenya	Uganda	Sampling procedure
1.	Heads of private security firms	17	10	Purposive
2.	Government Officials- Police and National Government Administration officers.	13	7	Purposive
3.	Private security guards	25	25	Simple random
4	The public	25	25	Simple random
	Total	80	67	

Source: Researcher, 2020

1.9.5 Data Analysis and presentation

The analysis of both the primary and secondary sources of data was done through the use of both qualitative and quantitative approaches of data analysis where both content analysis and narrative analysis was utilized. Content analysis was used to tabulate and summarize behavioral data.

Narrative analysis was used to analyze the primary qualitative data.

Ethical Considerations

Given the sensitive nature of this study, ethics was given much priority. The researcher first created a good rapport with the respondent and then informed them what this study aims to achieve. Confidentiality of the information provided by the respondent was observed. The information by the respondents was purely for the purpose of academics. The respondents were also not forced to give their names.

1.10 Scope and Limitations of the Study

The study was mainly carried out in Nairobi and Kampala. The study focused on investigating the implications of arming private security guards on management of national security. It determined the level and type of implications of arming private security guards have on national security. The research focused on the private security companies in Nairobi metropolitan-Kenya and Kampala in Uganda.

This study was limited due to the suspicion from police officers and members of private security regarding the research. Another limitation of the study was illiteracy and low level of education among the private security guards.

Chapter Outline

This section outline the chapters covered in the study: Chapter one which is the research proposal has given the introduction to the study, the research problem, objectives of the study, literature review, theoretical framework, hypothesis and research methodology.

Chapter two looks at the concept of security in general, it gives account on the emergence of private security. The role of private security guards in provision of security is also largely tackled in this chapter.

Chapter three looks at the implications of arming security guards on national security. This chapter critically examine the pro and cons of arming private security guards and what it means to the country's national security. This was done in reference to Uganda who have armed their private security guards.

Chapter four analyzes the mechanisms that have been put in place to curb the negative effects of arming private security guards. With Uganda as a case study, the study has come up with a framework in which armed private security guards can contribute to national security rather than harm it.

Chapter five concludes the study, this chapter includes; conclusions, summaries and recommendation of the study.

CHAPTER TWO

THE CONCEPT OF PRIVATE SECURITY GUARDS IN KENYA AND UGANDA

2.1 Introduction

This chapter addresses conceptual analysis of private security guards as applied to both Kenya and Uganda. The study discusses the concept of private security guards from the perspective that despite increased growth of private security firm, it is the obligation of the government to offer security to her citizens. In addition, the study bases its argument from the fact that the role of the state emanates from the realist ideals of why states exist. The statement above is backed by the legal instruments like the constitution which state that the mandate of the state is to provide security and further outlines the manner in which the state should provide it. This chapter therefore, analyses the emergence and the growth of privatized security firms and how the growth is attributable to the negligence of government to fulfill its basic mandate of offering security. The overruling question in this chapter is; has the negligence of state to provide security to its citizens led to incidents where the public resorts to acquiring individual protection to fill the gap? This chapter will therefore lay the foundation for the concept of private security guards in Kenya and Uganda.

This section of the study presented the demographic characteristics of the respondents. Given that the study relied on both primary and secondary data, questionnaire was the main primary data tool. The researcher hence sought out the response from the target population with the demographic characteristics as follows:

Demographic characteristic

Sex.....frequency.....percentage

Female	54	37%
Male	93	63%

Age.....frequency.....percentage

18 -24	11	7.4%
25-35	39	26.5%
36-45	51	34.7%
46-55	15	10.2%
56-65	14	9.5%
Over 66	17	11.5%

Level of education.....frequency.....percentage

No formal education	none	0%
Below KCPE	9	6.1
Below KCSE	60	40.8
Form 4 Certificate	27	18.4
Diploma	9	6.1
Degree	22	14.9
Others	20	13.6

2.2 General concept of Security

Traditionally, the term security translates to when there are no threats both internally or externally to a state. In addition, it can also be defined by the ability of a state to have functional integrity as well as independent identity against hostile changes that may occur. There are three dimensions in which security can be explained. Firstly, is lack of military conflict in a state which is a traditional ideology. Second is a wider definition which is directed towards inter-state relations. Lastly, security can be explained in line with human security. In this sector, security is adequately defined in an objective and subjective sense by Arnold. Objective view of security is when acquired values have no threats while subjective view is when there is no fear of attacks to the values acquired. In the economical perspective, when every member of a society has access to good security, it benefits them all since it becomes a public good. Every member of the community is able to consume security if it is a good. Human security aspect is now dominating over the argument of security policy and theory because it has the widest and deepest perspective of the term security. People's security has been more focused on due to a higher stress by the perspective of human security which has led to a shift from the national security of traditional view. This has been achieved by shifting the focus of security from armaments to environmental security, territorial food security and employment which are all human developments. For quite some time, the term security has been defined by inter-states potential conflicts. However, this concept of viewing security as just threats posed to a country borders which makes them to sort arms for protection, has been changed by the concept of human security. Historically, the security of individuals and the community has always been the priority of the society since security depends to a larger extent on the economy and the livelihoods of individuals. The trials to provide such security have greatly leveled up showing the changing circumstances and increase in threats. One of the key advancements has been the rise of private security as an alternative to means to

access security whenever individuals feels they're threatened and the government cannot provide the necessary security.³¹

2.3 Concept of Private Security guards

The rising demand curve in the services provided by the private security guards has been attributed, by ,different scholars to changes in the economy, population and political class which as a result has brought about diversity in the world. Coincidentally the advances have happened at the same time when, various governments are seen to be declining in their duty of providing security to the public. Goddard explains a private security firm as one of the many citizen business that offers contractual services which are profitable and these services are mostly offered to local and international based companies with the aim of protecting firms employee and assets and these services are offered within the law ³². Private security is increasingly being contracted to provide security in various high social places. These places include airports, malls , hotels foreign embassies and banks which are prone to attacks. To further show the extent that people trust private security, private security firms are increasingly providing their services at open events with no restrictions and also transportations of very important persons (VIP). These roles were previously offered by state through the police but are now being taken over by private security firms or organisations.³³

According to Richards and Smith, the growth and rapid development of privately owned security firms may be as a result laxity of the state to provide proper security to its citizens. This rapid

³¹Wairagu, F., &Kamenju, J. A. (2004).Private security in Kenya. Security Research and Information Centre (SRIC), Nairobi:

³² Goddard, S., The private military company: a legitimate international entity within modern conflict. (Thesis, Faculty of the US Army Command and General Staff College, Fort Leavenworth, Kansas,2001)

³³Strom,K et al. The Private Security Industry: A Review of the Definitions, Available Data Sources, and Paths Moving Forward, RTI International 3040 Cornwallis Road Research Triangle Park.

growth and development has seen forth a numerous of compelling questions in relation to the ability of states to provide their citizens with security.³⁴

The rise of private security has also brought with it some challenges. Private security has become a lucrative business venture which has often led to the question about profitable codes of ethics, honesty and sense of responsibility. However, the booming of privatized security firms should act as a reminder that states need to improve in providing security and protecting its citizens. The provision of security as stated elsewhere in this study is the primary objective of a state but the rise of privatized security firm is a clear indication that something is not being done right.³⁵

According to Trim, he views the rise of private security as the negligence of the state to provide adequate security hence there is need to enhance private security, incorporate them into national security or provide a basis in which they can work together with the state to ensure that security is provided.³⁶ As such there should be collaboration between state security officers, their law enforcing officers, as well as intelligence and security officers taking part in maintaining law and order. Private and public security apparatus should work together since their aim is to ensure the safety of individuals. According to Forst, those who adhere to enforced laws as well as promoting cooperation between private and state-owned security agencies, forms an effective intelligent government in this twenty first century. People's safety should be at the center of this kind of collaboration.³⁷

³⁴ Richards, A. & Smith, H., Addressing the role of private security companies within security sector reform programmes Saferworld, London, 2007.

³⁵Kakalik, J. S., & Wildhom, S. (1971b, December). Private police in the United States. Santa Monica, CA: Rand. Retrieved from <http://www.rand.org/pubs/reports/2006/R869>, accessed on 14 January 2020.

³⁶ Trim, P. R. J., Public and Private sector cooperation in counteracting cyberterrorism, (International Journal of intelligence and counter intelligence, 2003) Vol 16, No. 4, pp. 194.

³⁷ Forst B. The privatisation and civilization of policing. (Criminal justice, 2000)

2.4 Concept of private security guards in Kenya

This study established that fifty years since independence, pluralization of the security industry in Kenya is not yet advanced. The provision of security has remained a fundamental challenge owing to emerging threats that range from terrorism, organized and urban crime. In the aftermath of the twin Nairobi and Dar es Salaam US Embassy bombings in Kenya and Tanzania in August 1998, demand for services by private security went up as businesses opted for services of private security. This was as a result of instances of insecurity in major urban centers in the country.³⁸

Private security is rapidly growing in Kenya and is widely distributed across the country in both urban centres and rural areas. Retired Justice Philip Ransley acknowledged that the private security is a major stakeholder in the country's security sector and contributes by specializing majorly in quick response in emergency, transportation of cash, guarding homes or offices, investigation, protecting high profile individuals and security consultancy.

Chesterman and Lehnardt, argues that the influence private security sector has had on nations cannot be ignored because security still tops as a major worry for all citizens from all countries, therefore private security will always remain a key player in matters security. However, he agrees that the growth of security firms confirms that there is fear of individual safety not only in Kenya but also other nations. The growth of private security firms has risen in the last decade in this state where the citizens are spending a lot of resources on security.³⁹ Apart from the evidence that private security firms are currently in our state, it is also very apparent that the safety of individuals depend to a certain extent on these private security firms instead of relying on the state.

³⁸ Report of the National Task Force on Police Reforms in Kenya: (An Abridged Version December 2009)

³⁹ Chesterman. S and Lehnardt C., From Mercenaries to market. The rise and regulation of private military companies, New York university public law and legal theory working papers, 2007.

Wairagu, et.al, points out that the private security sector has created employment to Kenyans with the majority being youths and school leavers who constitute 48% of the work force aged between 15-30. The remaining 52% are those who were sacked during privatization and restructure programs. The private security sector in Kenya is comprised of numerous multinational companies which enjoys vast market shares and offers quality standard services than the smaller companies. Some of these small companies operate illegally. They further note that there is high competition in the sector but lacks standards due to lack of professionalism on both sides of employees and employers.⁴⁰

Abrahamsen, et.al notes that due to the low salaries, the police have been accused of corruption and extortion. The police have also taken part in political affairs against opposition and violence acts which have led to the public having little confidence in them. This perception of the police leads to mistrust in the police forces so much that Abrahamsen, et.al, notes that the police are frequently regarded as part of the problem rather than the solution to crime and disorder. In addition, they said that even in the instance of positive applaud such as focusing on the improvements done due to the financial resources the sector was accorded and the reforms implemented, their reliability is still below a satisfactory standard despite individual police officers giving their all to deliver. This situation has made very many individuals to opt for the private firms since their trust when it comes to the police is very low.⁴¹

The study notes that many citizens have reorganized themselves so that they can maximize on the different ways that can ensure safety because of the state's inability to provide the necessary level

⁴⁰ Wairagu, F., &Kamenju, J. A. (2004).Private security in Kenya. Security Research and Information Centre (SRIC), Nairobi:

⁴¹ Abrahamsen, Rita and Williams Michael., Securing the City: Private Security Companies and Non-State Authority in Global Governance; International Relations 2007 21: 237, University of Wales, Aberystwyth, UK

of protection. The reorganization measures that the individuals took was turning to the private security firms for their services which has led to the growth of this sector, creating varied neighborhood watches and use of vigilante groups. When it comes to private security firms, only the rich can afford because their rates are expensive being motivated by profit maximization. On the other hand, poor people who are the majority, live in informal settlements and slums and in the event of rising crime and insecurity, they majorly rely on forming vigilante groups to provide protection because they cannot rely on ineffective police service.⁴²

2.5 Perception of private security guards in Kenya

Numerous studies agree that private security is a necessity in Kenya due to a number of reasons. One international terrorism have greatly brought fear which has in turn led to demand of security services. This demand is mostly from international and Commercial clients. International clients within Nairobi includes international organizations and national embassies, like US embassy and United Nations Office at Nairobi. Commercial clients such as big industries, commercial banks, and government owned agencies. These companies provide fast services starting from electronic intruder alarm systems, radio alarm response, perimeter protection and access control and Cash-in transit. The consumer clients on the other hand offer a relatively small market for the private security because only the rich can afford it.⁴³

On employment, despite private security companies being seen as a major boost for employment of youths and uneducated workers, their employees (guards) are poorly remunerated. The low

⁴² Spaseski J., Private Security as an Integral Part of a Uniform Security System. Private Policing and Security - Relationships between the Private and Public security.

⁴³ Strom,K et al. The Private Security Industry: A Review of the Definitions, Available Data Sources, and Paths Moving Forward, RTI International 3040 Cornwallis Road Research Triangle Park.

pay and pathetic working conditions of employees is of major concern since it can have a negative impact on fight against crime.⁴⁴

According to the primary data obtained through questionnaires, 84% of Kenyan felt that the move to arm private security was necessary. However, the 16% felt that instead of legalizing private security firms to acquire arms, the government should work on increasing the number of police officers in order to fill the security gap. Some respondents opined that only a fraction of private security guards that ought to be armed and should be assigned duties of protecting critical assets and services like government facilities, banks and escort of cash –on -transit.

2.6 Concept of private security guards in Uganda

In Uganda, the private security companies plays a crucial role in providing security. However, in the case of Uganda, private security complex is not a clearly identified homogenous group. It is difficult to distinguish between the public and the private security and formal and informal security as private security is closely monitored and supervised by the government. The state-run private security network is believed to be made up of regular police who work in various public and private agencies. In this sense private security is much more than the formal system of registered security guards since they are closely monitored and collaborates with the police.⁴⁵

Nakueira, argues that the informal connections massively hampers the formal regulation of the industry in Uganda. The politics in the security sector in Uganda means that some private security companies are an extension of the state security. Since the state is normally a politically contested regime, it can be clearly seen that private security companies offer a useful backup to

⁴⁴ Government of Kenya. Economic Recovery Strategy for Wealth and Employment Creation 2013-2017, Government Printing Press, 2018

⁴⁵Kirunda, S W (1995). “Private and Public Security in Uganda” ISS Monograph Series, No. 20

protect fundamental national interests should they be threatened. This has serious implications depending on the nature of state regulation.⁴⁶

This study observed that Private security has been a relative success in Uganda. In Uganda the professional PSCs have contributed to an increase of deterrence against crimes. Depending upon the arrangements of the State these (PSCs) can be used as a primary responder before the State actors arrive to the crime scene. They (PSCs) can also provide additional resources to support State actors. In some States, State or local authorities incorporate PSCs into their response to disasters, and assign PSCs the duty of cooperating and assisting public law enforcement officials.⁴⁷

2.7 Perception of private security guards in Uganda

In Uganda, the study relied on questionnaires to get the perception of the public on private security. The responders differed conceptually where some responders fully supported their existence while others were skeptical.

Those who agreed on the importance of private security saw the benefits in accredited privatized security firm and persons assuming police duties and in offering them with powers but in limited form. Skeptics on the other hand did not see any major role that arming private security companies plays in enhancement of security situation. According to them, private security sector is a business venture that is driven by profit motives. Consequently, it makes it unfavorable partner in providing police service. In addition, private security is also for the affluent members

⁴⁶ Website. (2016, 3 March). 20 Years of Saracen. The New Vision newspaper. Retrieved on 12th March 2020 from <http://www.newvision.co..ug>

⁴⁷ <https://issafrica.org/chapter-one-private-and-public-security-in-uganda-solomon-wilson-kirunda>, accessed on 14 March 2020.

of the society and only those who are capable of paying gets their services. According to them police needs to take responsibility for provision of security.

In Uganda as per the data from the questionnaires, 37% of the respondents preferred public security for private security service while the majority 63% were contented with seeking services from private security organisations.

2.8 Summary of the chapter Findings

Conclusively, this chapter looked into the concept of private security guards in Kenya and Uganda. The concept of private security guards is not a new phenomenon at all. For as long as humanity exists, there has been some form of private security arrangement that offered protection to individuals and their properties. As population grew and the world became more complex and challenges arose, the need for private security re-emerged. Private security has thrived mainly due to failure of the state to ensure security for all her citizens. Most scholars view private security as necessary in the current world, while some downplay its significance in preventing crime as compared to police who are well trained and well equipped to deal with crime.

CHAPTER THREE

IMPLICATIONS OF ARMING PRIVATE SECURITY GUARDS TO NATIONAL SECURITY IN KENYA AND UGANDA

3.1 Introduction

This chapter analyzes the implication of arming private security guards in Kenya and Uganda. With plans underway to arm private security guards in Kenya, Uganda presents a good opportunity for Kenya to learn the implications that comes with arming private security guards. This study looks at both the positive and negative impacts of arming private security guards. The implications range from legal, security and socio-economic issues. The study also addressess issues of regulation, recruitment and vetting of private guards, training, safety and security of arms.

3.2 Implications of arming private security guards

Implications are conclusions that this study draws from results of either primary or secondary data and explain how the findings of arming private security guards may be important for policy, practice and theory in national security management.

3.2.1 Legal implications

This study established that, for a long time, there has been lack of proper regulations in place to guide the operations of private security firms in east Africa. This has led to instances of human rights violations, poor working conditions for the guards and issues of governance amongst other challenges. In Uganda private guards are armed while in Kenya regulations are being put in place with the only challenge being determination of

minimum wages for the guards when the bill was debated in the National Assembly in January 2020 though much of the regulations are in place.⁴⁸

This therefore calls into question the legal background that private security firms operate in. Private security for a long time has mainly relied on self-regulation and, due to the absence of a clear legal framework, the operations of a number of private security firms have not been up to the required standards. A number of private security firms continue to flout labour laws, others have been reported to mistreat their employees, as well as issue of poor work ethics. However, in Kenya this changed in 2016 with the enactment of the private security regulation Act.⁴⁹ Legal issues also arise due to the arming of private security guards which threatens the functions of the state as the only legitimate authority to use of force. However, it is still the states that grants private security the authority to bear arms. Arming private security guards may also be a threat to modern democracies, where armed security guards may be used by corporates for their own personal interest which could be detrimental to the national security especially during elections periods which are sometimes marked with tribal animosity, violence and intimidations.

3.2.2 Regulatory Issues in kenya

The study observed that the major challenge in the private security sector arises when it comes to developing a sound regulatory framework. Regulatory frameworks are key to issues of licensing and monitoring which ensures higher standards of services. A sound regulatory framework is also a crucial step to ensure safety of security guards and those they are meant to protect. There is a growing concern that unarmed guards are ineffective to stop crime. This has led to a number of

⁴⁸ <https://www.ncjrs.gov/pdffiles1/bjs/grants/232781.pdf>, accessed on 21st April 2020.

⁴⁹ <https://www.standardmedia.co.ke/article/2001294543/new-private-security-regulations-good-for-industry-transformation>, accessed on 21 st April 2020.

private firms to arm their guards with personally licenced guns a move that is not illegal but equally not officially recognized.⁵⁰ There is still uncertainty as to how the proposed regulatory measures will impact private security firms and eventually the national security.

According to responses from the questionnaires, the arming of private security guards poses legal challenges both in Kenya and Uganda. In Uganda, the government has done much to put in place laws and regulations to govern the armed private security guards. In Kenya on the other hand, there is no clear laws governing arming of private security companies. Arming these guards hence will necessitate the need to have strong mechanism and regulatory frame work to not only address the PSCs but also factor in the issue of arming private security guards.

3.2.3 The Kenya private security sector after the adoption of the 2016 Act

The 2016 Act came about to address the lack of regulation in the private security sector. Before 2016, the private security industry in Kenya was not well organized. There was clear lack of professionalism and accountability among most of these firms. 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”.⁵¹

The 2016 Act, was a significant step towards regulating the operations of private security guards. According to Article 3, of the Act it states that the private security guards should be regulated in accordance with values and principles of the Kenyan Constitution. The act regulates both the

⁵⁰ Otieno, Dorothy. 2016. <https://www.nation.co.ke>. October 1. Accessed 11th March 2020. <https://www.nation.co.ke/newsplex/global-police-killings/2718262-340208>

⁵¹ <https://www.the-star.co.ke/news/2019-11-03-it-is-impossible-to-comply-with-new-security-laws--private-firms>. Accessed 08 January 2020.

kenyan company within the country and outside the country. It also provides a framework where the private service industry and the state agencies that deal with security can cooperate.

3.2.4 Private Security (General) Regulations 2019

In 2019, the Private security (General) regulations was gazzeted by the Cabinet Secretary for Interior and Co-ordination of National Government following the enactment of Act No. 13 of 2016 (the Act). This was the last set of guidelines required to operationalize the Private Security Regulation Act 2016 and the Private Security Regulatory Authority (PSRA) under it.

The private security regulation 2019 was set to take effect from January 5, 2020. The regulation requires all users of private security services to only hire or engage such registered and licensed private security officers and firms. This regulation has effects on the administration, operations and the status of private security service providers in Kenya.⁵²

The Private Security Regulatory Authority (the Authority) was put in place to ensure that private security is effectively regulated, supervised, controled and administered. It will be a requirement that all entities offering private security services to register with the authority.

3.2.5 Regulatory Issues in Uganda

Since 1987 Uganda government had come up with various regulations to govern the conduct of PSCs notably The Firearms Act, Cap 299, The Police Act, Cap. 303 and the police (Control of Private Security Organisations) Regulations, S.I 303-8. On 15 March 2013 the government came up with statutory instruments No. 11 The Police (Control of Private Security Organisations) Regulations, 2013 in order to tighten the governance of Private Security Organisations (PSOs) in

⁵² Article 13 of the Act

Uganda.⁵³ The regulation of 2013 which must be read in conjunction with other laws has designed serious measures to monitor and regulate the operations of PSOs or PSC.

These guidelines gave the Inspector General of Police (IGP) the power to oversee the operations of PSOs in Uganda. The IGP works with the Regional and Divisional Police Commanders (RPCs and DPCs) to monitor the operations of private security guards⁵⁴ In Uganda guards and police work hand in hand. The private guards supplements the work of the police. Private guards may also in some instances be the first responders to crime.⁵⁵

3.2.6 Obligations of the Security companies

Most respondents observed that the statutory instruments are a key requirement in the operations of private security firms. Equally, the PSOs ought to pay wages and allowances to their employees promptly.

In Uganda, it is a requirement that the security firm should at all times obtain and have the required licences as stipulated in the law prior to their operations. In case of any crimes, the PSOs are to report to the district Criminal Investigation Department (CID) officer. Another main requirement is that the PSOs in their operations should respect human rights.

On personnel accountability, the security firms are required to keep a record of the details of their staff like fingerprints and avail it to the IGP as well as keeping an up to date records. Guards are not allowed to conduct tasks like engaging in debt collection. This is to avoid instances of

⁵³ Statutory Instrumentsb2013 No. 11. 517

⁵⁴ www.upf.go.ug December 14, 2013. Accessed 16 January 2020.

⁵⁵ ibid

conflict or violence. As per the regulations guards are expected to be professional and competent and this is ensured through proper training from certified institution or certified instructors.

3.2.7 Obligations of the Police

In Uganda, the IGP has the responsibility of ensuring that the PSOs not only offer high-quality service to clients but also use firearms in their custody appropriately and ensure the safety of their clients. The IGP should additionally make sure that PSO personnel satisfy minimum standards of operational discipline and competence. The RPCs and DPCs perform the daily functions of supervising the PSOs on behalf of the IGP. Annually, the IGP should issue a certificate of assessment for every PSO within the country. Additionally, to make sure competence of security guards is achieved, the IGP should set standards of coaching and performance and make sure that they're adhered to and for the proper custody of weapons including responsibilities thereof. On safety standards, DPCs should unceasingly check on the use of firearms to ensure that they keep up with the set standards to lower the risk of misuse.

Moreover, the IGP should oversee and approve all arms that are in the hands of the PSO and procurement of all arms and importation should be done according to procedures as stipulated and ascertained by the IGP before the minister for world affairs can issue authorization. This rule requires that all firearms should be assessed each four months by the IGP.

The study determined that every PSO personnel bearing arms should be trained in keeping with standards set by IGP, and that they should be approved, certified and commissioned as per the rules. The police should make sure that any guard carrying arms is so commissioned and licensed to do so. To closely monitor and supervise the PSO particularly on answerableness of arms, the IGP should make sure that the regulation and registration process is not broken. The PSO should

often give update on the firearms and ammunition. Additionally, all movement of firearms be it for readying or for the purpose of repair should solely be undertaken by the authorized agencies like the IGP, DPC or RPC. The IGP should examine each PSO's armory, arms and ammunition each four months to ensure that it keeps record of the usage and cases of misuse.

The police should additionally make sure that PSO personnel account for the firearms at any given time by conducting random checks.

Additionally it is incumbent upon the DPC to observe readying and coaching activities in PSOs as District security Committees manage enlisting of PSOs, and keep the IGP updated on the overall variety of PSOs operating in their district. Equally, the RPC ought to scrutinize on quarterly basis all PSOs in their location and submit a duly signed report back to IGP.

3.3 Security Implications

The proposal to arm private security companies in Kenya was a move meant to address security challenges. For decades Uganda government have managed their security challenges in collaboration with armed private security companies thus the study draws a lot of security lessons from the country. Notwithstanding that security implications of arming private security guards are critical in order to identify gaps in regulations and policy strategies so that they can be adjusted or addressed amicably.

3.3.1 Fight against terrorism

The role played by the security guards in business enterprises continuity in the broad sense of ensuring the security of premises and personnel with respect to normal crime of theft, vandalism and pilferage in their current state cannot be lost. Playing as an additional support and resourceful actor to the public security in efforts to working against crime and client oriented, their critical

role in organizations has grown into a core function. With the recent attacks on businesses, the same cannot be said of their effectiveness in protecting such enterprises whose responsibility they are charged with especially against terror attacks. Therefore the debate arising argues as to whether it will be possible for guards to play a role in safeguarding installations against terror attacks if they are equipped with the right instruments especially the kitting and arming component.⁵⁶

Private security is a for-profit service industry, this means that their clients get a direct say in the type and kind of quality service that has to be provided. In the wake of terror threats taking over from the small crimes of theft which the service industry was much bent on, the clients are demanding for more. With the rise of private security companies, the service industry has become a highly competitive environment. This means that the security companies have to take a role against the increasing security threats to keep their clients happy at all costs. Therefore, the ability to arm guards to effectively counter terror attacks and still make a profit can give them a competitive advantage in the maintenance of national security.⁵⁷

The terror attacks including those against University students in Garissa, the Westgate attack and the DusitD2 hotel among others were not prevented by the guards who were deployed to secure the facilities. In fact, there has never been an incident where the available private security guards have been able to counter or repel terror attacks in Kenya since the year 2011 despite there being evidence that they were deployed in all of those places at the time of the attacks. This calls for an

⁵⁶ Howie, Luke. 2014. "Security Guards and Counter-terrorism: Tourism." *International Journal of Religious Tourism*

⁵⁷ Henry H. Willis, Andrew R. Morral, Terrence K. Kelly, Jamison Jo Medby. 2005. *Estimating Terrorism Risk*. Santa Monica: RAND Corporation.

analysis as to whether they have a role in preventing or mitigating terror attacks unless by relieving the police some duties so that the police can concentrate on the fight against terrorism.

Since terrorists have to use entry points for their targeted facilities, the chances that the security guards will always be the first to be in contact with assailants is highly possible. The security apparatus that these guards highly rely upon at the entry check points include traffic control barriers, metal detectors and surveillance cameras that are controlled in security rooms by supervisors or other guards. This means that in any terror attack the guards with their small and ineffective equipment cannot be reasonably able to effectively defend against the terrorists who in most cases have weapons that are unmatched in terms of fire power and the damage they can effect. The fact that terrorists anticipate for minimal resistance by security guards, their entry and control of these facilities is made easy for them. Arming private security guards could change this for better as has been in the case for other countries like the United States of America.⁵⁸

Proponents argue that security guards are the first line of defense against terror attacks, while they could also be viewed as the first responders. Standing guard at entrances to buildings, malls, hotels and sporting events when terrorists or other assailants attempt their attacks, they stand a good chance of countering the attacks assuming capacity. Security guards are a visible and symbolic feature of security safeguards for any organization. A US Congressional report revealed that private security guards, fill the gap created by limited public resources and are by extension a much affordable and efficient manner of ensuring safety, security, and the appearance of certainty.⁵⁹ While the overburdened public security reacts to an already commenced terror attack,

⁵⁸ Henry H. Willis, Andrew R. Morral, Terrence K. Kelly, Jamison Jo Medby. 2005. *Estimating Terrorism Risk*. Santa Monica: RAND Corporation.

⁵⁹ RAND. 2009. "Understanding the Role of Deterrence in Counterterrorism Security." *RAND*.

the private security could reasonably be in a position to make a delaying engagement to terrorists plan. Indeed, security guards by their deployment have a significant role to play in the counter terrorism security. The private security staff provide the first analysis before any attack thereby becoming an important link to a country's public security. However citizens need to be reassured that their safety will remain even as the armed guards help deter terrorists in such instances.

To match this first line role and resolve the problem of guards being rendered ineffective against armed terrorists due to their current unreliable equipment, some of the industry players have proposed for the guards to be armed in an effort to enable them perform their duties of protecting the key target facilities they are charged with the responsibility to protect. In their arguments, they have cited armed guards in other countries deployed to protect such facilities among them Uganda. The situation in Uganda with regard to armed private security guards can thus serve as an inspiration for Kenyans.

From the questionnaire response, arming private security guards has implications in the fight against terrorism. Uganda has faced fewer cases of terrorism compared to Kenya. As much as this cannot be fully credited to their armed security guards, it has in some way helped in the fight against terrorism. In Kenya, the armed guards are to act as the first line of defence against terrorism. Given that terrorist target social places that are usually manned by unarmed guards, they will be key in the fight against terrorism. Arming private security guards will also relieve the police of small responsibilities hence positioning them better to deal with major crime like terrorism.

3.3.2 Addressing crime related cases

Both the increase in number and the growth of private security sector and the rise in crime is connected to the failure of the state to provide safety and security.⁶⁰ Individuals continue to organize themselves in numerous ways in which to maximise their own safety due to state failure to offer and give a credible assurance to public safety and security. This led to the expansion of personal security firms as well as the formation of varied kinds of neighborhood watches or vigilance groups. Whereas there are a number of individuals who can afford to pay for the services of security companies, majority of the population still rely on the informal security arrangement. To this end, various vigilante groups have grown in the informal settlements areas in the major towns and rural areas.⁶¹

The expansion of private security hence, is due to the high crime rates and the inability of the public security services to offer adequate security.⁶²

The response from the questionnaires shows that arming private security guards will lead to quick response in dealing with crime as they inform the police who would be expected take over immediately. This collaboration between police and private security guards helps boost the fight against crime .

Arming private security guards will also bridge the security gap that exist. The reason why people turn to private security guards is because they feel insecure, hence arming these guards will automatically fill the existing security gaps.

⁶⁰Watima, Tony. 2019. *Arming Guards not the Solution*. January 21. Accessed 20 February 2020. <https://www.businessdailyafrica.com/analysis/columnists/Arming-guards-is-not-the-solution/4259356-49450368111sbz/index.html>

⁶¹ D. Anderson (2002) 'Vigilantes, Violence and the Politics of Public Order in Kenya', *African Affairs* 101(405), pp.531-555.

⁶² Parfomak, P. 2004. *Guarding America: Security Guards and U.S. Critical Infrastructure Protection*. Washington: U.S. Congress.

Further, arming of private security guards will lead to increase in the ratio of security per person. This will enhance safety and increase the effectiveness of security responses. Arming private security guards will also compliment the work of the police in fighting crime.

3.3.3 Proliferation of small arms in the region

Beside risks posed at the business premises by armed guards, arming them also poses a proliferation problem in a region already crippled by the same. In a region where even government security services personnel have lost weapons to terrorists and other criminals, it can only be reasonably expected that even more would be lost to them by the less proficient and experienced armed security guards. This could in effect lead to further proliferation of small arms. Proponents of arming security guards have argued that this endeavor will not lead to the proliferation of arms as only those facilities that could be the target of terror attacks will be allowed to have armed guards. However with the earlier terror attacks having not left a traceable pattern, it is probable that terrorists will keep innovating their efforts of spreading fear, therefore, picking and choosing which few facilities to protect with armed guards is not an effective strategy in itself.

As per the responses, the fear of majority of respondents is that arming private security guards would lead to misuse of firearms. This can easily lead to proliferation of small arms in both Kenya and Uganda. In Uganda, there are a number of cases where private security guards have misused arms either to rob or extort citizens. The same is the fear of most Kenyan respondents who feel that arming private guards might lead to unintended negative consequences including politically instigated violence.

3.4 Socio-Economic Effects

3.4.1 Accountability

In order to be allowed to bear arms in protection of publicly accessible facilities, guards will be expected to be trained to effectively use the arms issued to them. Considering the lack of job security and the large number of guards trained, some might leave employment voluntarily or for reasons beyond their control. The large numbers will make it hard for intelligence services to keep track of all those trained on weapon proficiency and out of employment at any one given time. With these skills, unemployed and untracked by security services, these people may pose a threat to the security of the nation especially with the high proliferation of small arms in the region.⁶³

3.4.2 Increased cost of security services

Most regulations prohibits deployment of a single armed guard as the risk of loss of the arm is higher due to either attack by criminal gangs or negligence through fatigue unless there is rotation after few hours. As a rule of thumb a weapon should be secured by 'another' weapon. Consequently, this requires deployment of two or more armed personnel which then demands for more personnel, more pay and higher cost of security including insurance cost. All these cost are by the end borne by the contractor of PSC and majority of the population cannot afford. Hence arming of PSC would increase the cost as armed guards would also demands better pay than baton wielding guards.

⁶³ Wanjala, Emmanuel. 2018. <https://the-star.co.ke>. June 8. Accessed 18 February 2020. <https://thestar.co.ke/news/2018-06-08-police-killed-803-kenyans-in-cold-blood-from-2013-to-2015-activists/>.

As per the responses, arming private security guards would mean that their service will be expensive. This is witnessed in Uganda where armed private security guards are only for the rich. This will be the case when Kenya arms their private security. The services will be expensive and only a few individuals will be able to afford thus bringing inequality in the country.

3.4.3 Insolvency of PSC

Armed PSC are likely to engage in cut throat competition through advertisement in order to attract customers by depicting that their guards are armed and thus better. This may lead to some companies closing their businesses for good amid the requirement for licensing. As alluded earlier PSC are driven by profit motives and companies often have life of their own and therefore some may undergo into liquidation resulting to laying-off of well trained personnel on weapon handling. These unemployed personnel may be tempted to join criminal gangs having known the *modus operandi* of their clients and weaknesses in their systems to commit crimes.

3.4.4 Industrial action

Most countries have labour movements and laws that allow employees to engage in industrial action to agitate for the rights especially improvement of their working conditions and salary increases. Most discipline forces save for countries like South Africa are prohibited for engaging in sit ins, go slow, striking or even contemplating doing so mainly because it is a voluntary service. In the event of industrial action by PSC whose guards are armed, this may pose a grave danger to public security and disarming them may result to illegal use of firearms that may lead to injuries or fatalities.

3.4.5 Ethnic based companies

In most African countries the prevalence of corruption is generally high including in the private sector. The tendency for recruitment of employees based on ethnic or tribal affiliation is high. In addition a trend has been observed in Kenya during elections where the political class ordinarily stoke tribal animosity or invoke their clansmen against other clans or tribes in an effort to consolidate voting blocks. This usually creates mistrust, fear and sends communities into survival modes and illegal gangs supported by politicians are common phenomena during election period. As speculative persons the enticement to create private armed militia under the guise of PSC to be used for political reasons is not a farfetched imagination. This in the long run would constitute a grievous security risk with a long term ramifications that would greatly negate the intended purpose of arming private security companies that is improvement of public security.

3.4.6 Increase in capital and administrative cost

The arming of PSC would require additional costs in the following areas:

3.4.6.1 Training of guards

The PSC are expected to incur additional cost of training personnel on weapon handling with the associated cost of training ammunition in order for one to be proficient on safety and effective use of weapons. In addition, weapon training would also require acquisition of targets, fuel for movement to the training area and more importantly weapon instructors. The guards would also as a requirement train on use of force for self defence and for protecting third parties. All these will require stationery and instructors which would add to the overhead costs which at the end should be borne by the contractors of PSC hence raising the cost of living.

Majority of the respondent from both Kenya and Uganda have pointed to the importance of training of armed private security guards. This is true since majority of the private security guards have no training on handling of arms prior to being recruited. Therefore, to be effective in their duties, the need for a thorough training should be conducted for the guards to be entrusted with arms.

3.4.6.2 Storage facilities

The safety and security of arms and ammunition is critical for public safety and security as weapon falling in wrong hands would be detrimental to social and economic wellbeing of the society. PSC intending to arm their guards must as a security measure construct strong rooms for storage of weapons and ammunition and this would add to more cost. Moreover, security of arms would necessitate acquiring of arms and ammunition registers where accountability of weapons and ammunition is conducted as a normal security procedure on daily basis. This in effect would require a storekeeper to issue and receive the weapons and conduct reconciliation to ascertain and establish proper accountability of weapons including ammunition. Further an independent person should be designated to confirm and conduct a physical check of weapons and ammunition either weekly, fortnightly or on monthly basis. Finally security of the weapons would require armed security guards including CCTV cameras to counter any would be raids by criminal elements and these would further increase the overhead cost.

One of the measures proposed by respondents, is the need to have a good storage facilities to ensure security of weapons at all times. As such, arming private security guards will necessitate the need for such storage facilities with requisite access controls.

3.4.6.3 Human Resource management

The arming of PSC would require reforms in the recruitment process where there will be minimum admissible level of education. In addition thorough vetting ought to be done and this would be expensive in terms of time and finances.

3.4.6.4 Medical check up

Handling of arms requires one to undergo routine medical check-ups of PULHHEEMS (P=Physique, U=Upper limbs, L=Locomotion, HH=Hearing, EE=Eyesight, M=Mental capacity and S=Emotional Stability) to determine their aptitude to effectively and accurately utilize the Arms entrusted to them. These check-ups adds the cost of provision of security services which may be transferred to the consumers of security services.⁶⁴

3.5 Arming private security guards; a comparison between Kenya and Uganda

Most states like Kenya and Uganda often plans and executes defensive measures while gangs, militia groups and terrorists often use counter measures in response. Research has shown that these groups change how they carry-out activities or design operations, modify their own strategies and technologies or adopt new ones or substitute different existing ones randomly and put in place instituted measures in their drive to achieve their missions. Relying on building walls as fortresses and arming whoever can be armed is a limiting strategy. However, by assuming that the groups are ever adaptive, it makes more sense to rely on a multiplicity of security measures that can be attuned and redeployed as armed groups discover their susceptibility.

⁶⁴ Otieno, Dorothy. 2016. <https://www.nation.co.ke>. October 1. Accessed 14 February 2020.
<https://www.nation.co.ke/newsplex/global-police-killings/2718262-340208>

Arming guards in Kenya is argued to be a costly affair compared to baton-bearing guard services and may end up becoming a cost center for corporations hiring or required to hire the services. The costs involved include recruitment, medical, mental and physical appraisal costs, training costs, increased personnel emoluments costs, purchase of the weapons and the infrastructure to secure them, perpetual vetting to ensure fidelity to the code of conduct, increased insurance premiums as services recipients seek to insure themselves against accidental injuries or death caused by the guards to third parties, Group Personal Assurance for the guards and the costs of continuous training and annual qualification of the guards for the weapons they are entrusted with. ⁶⁵These additional costs may prove to be prohibitive to some organizations in the interest of remaining profitable. The risk of mass shooting terror attacks still remains low based on past experiences. This, however, cannot be said of the risks posed by armed guards. There have been reported incidences of government armed security services showing a sizeable number of inadvertent deaths caused by armed officers despite undergoing better training and appraisal than would be expected of private security guards.

A different picture is painted of the armed private guards in Uganda as they are known of preventing crime using the weapons entrusted to them. From a risk standpoint therefore, it is difficult to craft a convincing argument for armed private security guards in many settings. ⁶⁶The presence of a firearm – even in the hands of a guard only stands to reduce the risk of casualties. To find balance between acceptable risks posed by an armed guard in the premises coupled with their ability to stop an attack and the risk of being attacked calls for further research. The ability of armed guards to effectively halt or successfully delay an attack or even minimize the number

⁶⁵ Berkowitz, LePage and. 1967. "Escalation." *Security Journal*.

⁶⁶ Kirunda, Solomon Wilson. 2008. "Private and public security in Uganda." *Institute for Security Studies*

of casualties has been evident in Uganda. Criminal gangs have been able to best even highly trained and experienced security forces as has been seen in attacks in Uganda and some in their own backyard because of their willingness to die for their cause, ability to mass to overwhelm the defenders as well as the ability to achieve surprise as well as bringing with them weapons tailor-made for those specific targets and security measures.

The institution of the legal framework to govern the arming of guards in Uganda has not be superficial but broad and specific at the same time. It dictates among other things the required physical, medical and mental fitness standards expected of perspective guards, while also instituting measures to monitor the training and appraisal of the trainees. Arming security guards in Uganda under the prevailing circumstances has thus far been of great ideal and only stands to improve the security situation without much in the way of achieving the expected goals.⁶⁷ All empirical and theoretical evidence specific to the Ugandan situation and otherwise supports giving arms to security guards even under an ideal legal framework as the cost and risks abound are prohibitive considering the benefits that can be rationally expected to come from the arming.

3.6 Summary of the chapter's findings

In summary there are numerous effects of arming private security. The effects are legal, economic, social and security. Proliferation of arms, cost of training and employment, issues of registration and licensing were some of the discussed impacts. Arming private security guards was a security move that was aimed at boosting the security for both Kenya and Uganda. However, the implications go beyond the traditional security aspects. Arming private security guards has far reaching legal effects because of issues of regulations and licensing and economic

⁶⁷ Gavin, Michelle D. 2018. "Waves of Crime Threaten Uganda's Reputation for Stability." *Council of Foreign Relations*, July 9.

due to issues of remunerations and salaries, social because of the welfare of the security guards and finally security because of arms related implications.

CHAPTER FOUR

MECHANISM TO CURB NEGATIVE EFFECTS OF ARMING PRIVATE SECURITY GUARDS IN KENYA AND UGANDA

4.1 Introduction

This chapter analyzes the mechanisms that have been put in place to curb the effects that may arise from arming private security guards. With Uganda as a case study, this chapter will come up with a framework in which armed private security guards can contribute to national security rather than harm it. At the end of this chapter, the study's hypotheses will be tested. The study will also explain if the objectives were met.

4.2 Legal and regulatory framework

Sound Legal and regulatory frameworks are some of the fundamental mechanisms that can curb the effects of arming private security guards. Most nations have particular legislation, and regulations governing PSCs meant to control or mitigate the harmful effects of arming private security companies. Some of the common elements of existing national law and best practices to curb misuse of arms either inadvertently or for criminal activities include the following:

The main regulatory framework for armed private security guards is through registration of PSCs with the relevant authority to ensure these companies and the individual guards operate within the law.⁶⁸

There is also the need to license the PSCs. The essence of licencing is to clearly define the types of services that the PSCs will provide, and an assessment ought to be performed to determine the

⁶⁸ Gumedze, S. *The Private Security Sector In Africa*. (Tshwane, Pretoria: ISS, 2017)

probability of whether the PSC might aggravate instability or threaten the safety of the public. This should allow measures to be put in place to ensure the accountability, integrity, and transparency of PSCs, including requirements for record-keeping and internal systems of governance like policies for recruitment of staff, training, and conduct. This has been used successfully in Uganda.⁶⁹ Thus, supporting the response from the questionnaires where in Uganda, there are strong laws that PSCs must register as a company with the registrar of the Company under Company Act 22. IGP is the one that recommends for registration. The response from Kenya also supports the same notion that the government must prepare a similar mechanism to ensure that regulatory issues are adhered to strictly.

4.3 Social-economic measures

Social-economic impacts of arming private security guards are adverse. It calls for strict social-economic rules to address these effects. The success of arming private security guards will largely depend on how the social and economic status of the private security guards are addressed and these status need to be enhanced for a positive impact to be realised.

4.3.1 Salaries

This is one of the major areas that must be addressed through proper remuneration of the security guards. The issue of salaries is the main issue for concern since most guards are paid little amount in terms of salary. It therefore, raises concerns of possible subversion of intent if not

⁶⁹ Statutory Instruments 2013 No. 11. 517 Statutory Instruments 2013 No. 11. 517. The Police (Control of Private security Organisations) Regulations, 2013. Statutory Instruments supplement to The Uganda Gazette No. 13 Volume CVI dated 15th March, 2013

adequately addressed. Many families who hire private guards are forced to increase their pay since the companies pay them peanuts. Entrusting an underpaid armed guards is risky as they may be tempted to illegally use the weapon for personal gains like robbery with violence .⁷⁰

In Uganda, the rate at which the PSCs purportedly gets involved in criminal activities is a cause for concern to the police. For example, there was a reported case where two-armed security guards were suspected of erecting an illegal roadblock in a city suburb and were arrested as they extorted money from passengers.⁷¹

100% of the respondents, both from Kenya and Uganda, stated that salaries are a crucial component in arming private security guards. Poor pay might be one of the leading causes of armed private security guards to be involved in crime. Therefore, the welfare of the private security guards must be the main priority before the arms are issued.

4.3.2 Comprehensive insurance cover

There is also the need for an appropriate insurance cover for the private security guards. So that private security can have peace of mind on the well-being of their family, the social welfare mechanism should be addressed. Bearing arms requires a state of mind that is free from stress and other forms of pressure. Giving insurance cover will not only cater for the welfare of the guards themselves but also those of their families.

⁷⁰ Wanjala, E., <https://the-star.co.ke>. June 8. Accessed 12 February 2020. <https://thestar.co.ke/news/2018-06-08-police-killed-803-kenyans-in-cold-blood-from-2013-to-2015-activists/>.

⁷¹ Gumedze, S. *The Private Security Sector In Africa*. (Tshwane,Pretoria: ISS, 2017)

4.3.3 Code of conduct

Private security firms should also show commitment to a relevant code of conduct that will ensure they carry themselves in a manner to show that they are professional. Professionalism is an essential requirement in the handling of arms. One of the critical effects of arming security guards was the risk of the proliferation of guns. Adherence to set code will ensure minimal cases as a result of the increase of arms.

For instance, in South Africa, unless the recruits have been successfully and competently trained on how to possess and handle weapons, use the weapon lawfully, safely, and correctly in the appropriate circumstance, then the code of conduct, which govern security service providers cannot approve the use or possession of a firearm by these personnel.⁷²

According to one respondent, there is a need to ensure the code of ethics is strictly adhered to while arming private security guards. As such, the government should prioritize recruiting retired but with good conduct, serviceable police and military personnel. Alternatively, the government can create an armed wing from National Youth Service (NYS) that can be contracted to be used by security companies as they are well trained and have a good code of ethics. Through the NYS initiative, the government can have control of arms and also earn from the endeavor.

4.3.4 Recruitment regulations

Regarding security personnel employed by PSCs, there is need to have a precise recruitment regulation that all private security firms must adhere to. These common elements include requirements to license individuals of a particular age to work as security guards and providers. During the recruitment, employees should each undergo a comprehensive background vetting

⁷² The code of conduct was adopted in 2003 in accordance with section 28 of the Private Security Industry Regulation Act (South Africa, 2001)

process (e.g., to ascertain that their criminal records are clean and they are not mentally ill). They must have completed a suitable training course, created and supervised by state authorities.⁷³ Formulation of rules and regulations by the constitution must be in line with local laws and fit the police who are likely to monitor the armed private security guards. The rules must also be alive to the attitudes towards guns and the existing state security mechanisms.⁷⁴

One of the respondents strongly argued that recruitment should be prioritized before arming private security guards. The respondent suggested that the guards should be at least qualified with O level education qualification. Upon induction, the guards should undergo intelligence and emotional quotient test and mental evaluation should be carried out annually. All these are based on proficient weapon handling training and mandatory refresher course.

4.3.5 Training and Building Capacity

To ensure efficiency and effectiveness, the armed private security guards must have regular training both in tactical and weapon handling considerations. As such, if a guard is unable to handle the gun, then he should not be entrusted with it. Otherwise, it can lead to a case of negligent or accidental discharge of weapon leading to death or injury. It is to be noted that having a gun and possessing the courage to face an offensive adversary are somewhat different issues. This must also be addressed since, without the proper capacity to hold arms, the guards can quickly lose the arms to criminals.⁷⁵

⁷³ <http://www.dopl.utah.gov/licensing/forms/applications/037_security_officer.pdf accessed 19 March 2020

⁷⁴ Otieno, D, <https://www.nation.co.ke>. October 1. Accessed 12 February 2020. <https://www.nation.co.ke/newsplex/global-police-killings/2718262-3402080-4okm52/index.html>

⁷⁵ Prenzler, R. Sarre and T., Private Security and Public Interest: Exploring Private Security Trends and Directions for Reform in the New Era of Plural Policing. (ARC Report, 2011)

Countries that allow security personnel to carry weapons, often require them to undertake extra training on the handling and use of the guns, and other restrictions may be applied. For instance, in the US state of Utah, a certificate of basic security training must be submitted by a person applying for license as an armed private security officer. It will act as proof that they have completed 12 hours of firearms instructions and have attained a minimum score of 80 percent of the practical test.

4.4 Addressing security effects

Addressing the security effects of arming security guards is the most essential aspect of arming the guards. It is because arming private security guards is a move meant to improve the country's security, particularly the fight against terrorism. To this end, importance must be given to addressing the security effects. Ensuring that firearms are stored away from homes of previous individuals convicted of criminal offence and wearing similar uniforms when on duty is one of the mechanisms to address security effects.⁷⁶

There is also a need for more restrictions and checks for armed private security, which should be limited to the practicalities and realities of the present local industry. On this, Kenya can borrow from Morocco who, in 2008, introduced legislation that allowed security guards to be armed as part of a general enhancement of security measures due to the growing concerns related to terrorist threats. Expressing their reservations about the new law, security industry professionals noted that few PSCs in Morocco had the competence to offer the high levels of professional training necessitated to operate weapons.⁷⁷

⁷⁶ NSW (New South Wales). 1997. Security Industry Act. Sec 23(B) Sydney

⁷⁷ http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2008/01/15/feature-02 Accessed 19 March 2020

Another critical security measure that private guards should strictly observe is to respect human rights. The PSCs are expected while conducting their daily duties to follow the simple principles that encourage respect for human rights by security companies.⁷⁸

On respect for human rights, Kenya and Uganda can learn from Switzerland who, in 2008, introduced the ‘The Montreux Document’ that sets out the international law, which can be applied to the activities of PMSCs every time they are operating in an armed conflict.⁷⁹ They also identified good practices such as the introduction of transparent licensing regimes, public disclosure of Private Military and Security Companies (PMSC) contracting regulations, and parliamentary oversight as a way of mitigating the adverse effects of having private security companies.

Even though the Montreux Document explicitly relates to the engagement of PMSCs by states in terms of armed conflict, several of its principles are of significance to the hiring and recruitment of PSCs generally and at a local level. It is worth noting that the Montreux Document has explicit provisions relating to the use of firearms by PMSCs, including recommendations for the selection of a PMSC.

Therefore, Kenya and Uganda should follow in the footsteps of Switzerland. This includes keeping records of the past conduct of the PSC and its personnel, including whether any of its staff, especially those who are mandated to carry weapons as part of their duties have a reliably confirmed record of not having been part of a serious crime or have not been dishonorably sacked from armed or security forces.

⁷⁸ Commission on Human Rights res. 2005/2, para. 12(e)

⁷⁹ “The Montreux Document on Private Military and Security Companies” International Committee of the Red Cross, Retrieved 19 March 2020

The PSC should also maintain updated and accurate records about personnel and property, particularly regarding weapons and ammunition, which can be availed for inspection on demand.

PSC's should also ensure that personnel are sufficiently trained, and are knowledgeable about rules on the use of firearms and force. To further monitor PSOs, especially in regards to issues of arms, the government should confirm whether PSCs obtain their equipment, especially their weapons, lawfully, and use weapons that are not outlawed by international law.

In addition, the government should the compliance of PSCs with contractual provisions regarding the return and disposition of weapons and ammunition.

According to the respondents, the PSCs should also put in place internal regulations, including policies that guide the use of force and firearms. This should be included in the contract or any other clause ascertaining that specific weapons, used by the PSC have been obtained lawfully and stipulate rules on the use of force and firearms. Force and guns should only be used when necessary in self-defense or defense of third persons.⁸⁰

The monitoring of the use of arms should also be put in place. This calls for the formation of an oversight entity to monitor and inspect the arms whenever an incident occurs. In the same line, immediate reporting to and cooperation with capable authorities regarding use of force and firearms should be reinvigorated.⁸¹

In addition to the above provisions, the government should develop appropriate rules that guide the possession of weapons by PSCs and their personnel, such as putting a limit to the types and

⁸⁰ Oral Interview with respondent on 14th March, 2020

⁸¹ Ibid

quantity of firearms and ammunition that a PSC may import, possess, or acquire; ensuring the registration of weapons, including their serial number and caliber, and ammunition, with a competent authority and in our case National Police Service through the IGP.⁸²

The government should also insist on the requirement of all PSC personnel to seek authorization to carry weapons that should be availed upon demand.

There is also the need to reduce the number of workers authorized to operate weapons in a particular context or area.

It is also important to ensure that weapons and ammunitions are safely stored in a safe facility when personel is off duty.

Most importantly, there should be further control of the ownership and use of weapons after the completion of an assignment, including the return to the point of origin or other proper disposition of guns and ammunition.

The Kenyan and Uganda governments should emphasize on these good practices in regarding firearm access and management by PSCs and should be supported by proper national regulations to regulate the use of arms by private security guards.

To address the security implications, 98% of the respondents strongly recommended the enactment of stricter laws on licensing and more stringent punishment of individuals or companies that misuse firearms. This means a harsh sentence on the misuse of weapons.

Further, there is a need to control and regulate the companies by the government. This should start with a thorough vetting of the companies and individual guards. This calls for better monitoring of PSCs to ensure accountability.

⁸² Ibid

There is also need to decentralize the oversight bodies of private security companies to the least possible level. This will ensure that at any given time, the private security companies are closely monitored and are put on check.

4.5 Lessons from Uganda

There are a lot of lessons that Kenya can learn from their neighbors in Uganda. Uganda has experience with armed guards as it is an ongoing practice in that country.

One of the key lessons is that in Uganda, the police issues standing operating procedure to PSO in an attempt to control their operations and to ensure conformity to the law. However, in some instances, the regulations governing the activities of the PSOs and other relevant Laws are not followed. This is one area that Kenya must tighten to avoid the negative implication of armed private guards. These guidelines are provided in conformity with the Police (Control of Private Security Organizations Regulations) to streamline the operations and help individuals who are involved in the management of Private Security Organizations. The procedures clearly spell out the general operating requirement and standards. Some of the most common elements in Uganda that private security organizations must adhere to are. First, for the Company to run successfully, there must be a policy decision making body with clear organization structures in place indicating posts and responsibilities and the qualification of such personnel. Second, any Private Security Organization licensed to operate must have offices where its headquarters is situated with the proper location. Private Security Organizations are not to proceed with any recruitment and training without first obtaining written permission from the IGP. The Company must indicate the number to be recruited and trained, and the duration and location of training accompanied with the training curriculum, firearms management, and control which entails, acquisition of firearms and ammunition, leased guns from government and outside government,

storage of weapons and ammunitions records and issuance and firearms deployment and movement. The personnel management system must be in place, and all personnel must be dully appointed in their respective levels by issuing them with appointment letters that clearly spell out terms of employment, and salaries should be paid promptly. All the staff must be issued with the Company Identity Cards immediately they join the Organization.⁸³

Thus, it is essential to note that these requirements and procedures are only as good when they are implemented and adhered. According to the department responsible for the supervision of private security in Uganda, they say that these operating procedures are not always strictly followed. This has, in some cases, greatly affected their security services. This is one area that Kenya must address up front to minimize the negative implications of arming private security guards.

Another critical observation supported by empirical evidence was that private security is regulated by the Police Act (Section 72), which provides for the establishment of PSOs. The police act is further operationalized by Statutory Instrument No.8, the Police Control of Private Security Organization 1997, which outlines the various regulatory mechanisms. Critical aspects of the regulation are (a) Registration of PSOs affected by the Registrar of Companies only on the recommendation of Inspector General of Police (IGP). The proposal is issued after a thorough vetting process that spans through the Police, District Security Committee, and National Licensing Committee. Kenya must as well come up with a sound legal framework that will guide the whole process of training and arming private guards. This legal framework must also conduct the recruitment and vetting of the individual companies to ensure that arms are used for the intended purpose.

⁸³ Kirunda, S. W., "Private and public security in Uganda." (Institute for Security Studies, 2008)

On the registration process, as per the Ugandan law, it is required that a private security provider registers as a company with the Registrar of Companies under the Companies Act.²² The registration is recommended by the Inspector General of Police (IGP) after an applicant has demonstrated that they satisfy all the procedures for registering a PSO. The operator's license is only issued by the IGP after a certified copy of the articles and the memorandum of the association have been produced. Procedures for registration and renewal of licenses are in place to serve all PSOs. Firstly, the district security committee is mandated with vetting and approving a security company. The district security committee is the local committee that is in charge of security matters within a particular district. All applications for registration and licensing are made to the IGP through district police commanders (DPCs).⁸⁴ In Kenya these can be done through the County Police commanders supported by the County intelligence and security committees.

Registration is a prime aspect that Kenya must take with crucial consideration. The whole process of arming private security guards must be done right, starting from the registration process all through to training, issuance and monitoring of arms. If not checked, then arming private security guards will lead to increased crime, lead to arms falling in the hands of criminals, and, lastly, may turn the private security sector to private forces for hire.

A potential conflict between the armed private security guards and the national police service must also be addressed. If trained and armed, then private security guards will feel a little more superior than they currently are. This superiority complex might lead to a clash between the police and the guards, which in itself might cause negative implications on national security.

⁸⁴ Gavin, M. D., "Waves of Crime Threaten Uganda's Reputation for Stability." (Council of Foreign Relations, 2018)

4.6 summary of the chapter's findings

This chapter has analyzed the measures that have been put in place to curb the effects of arming private security guards. The steps were in the form of legal and regulatory, security, and social-economic frameworks.

The chapter began by looking at the regulatory and legal framework. In order to address these legal effects, there is a need for registration of PSCs as well as proper licensing procedures. This will allow for the regulation of these companies.

The social-economic measures included the issues of salaries and remuneration of private security guards, comprehensive insurance cover, ensuring there is a code of conduct that all PSCs adhere to, recruitment procedures as well as training and capacity building.

The security measures are of importance to this study because arming private security guards was a security move. Therefore there is a need to ensure that arming private security guards does not become a security threat. Measures like monitoring and supervision are necessary to ensure that there is no increase in proliferation and misuse of arms.

The chapter has concluded by drawing lessons from Uganda. This was done by looking at what Uganda has done, what are some of the loopholes and challenges that exist, and how Kenya can learn from the problems that Uganda is facing.

CHAPTER FIVE

SUMMARY OF THE FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the study findings, conclusion and recommendations based on the three specific study objectives, which were to: examine the concept of private security guards in Kenya and Uganda, investigate the implications of arming private security guards to national security and examine mechanisms that are being used to curb negative implications that might arise from arming private security guards.

5.2 Summary of the findings

Based on objective number one which was the concept of private security guards in Kenya and Uganda the study established that the rise and demand of private security was necessitated by the inadequacy of the government to provide security to all. However, there is variation in the perception of private security guard both in Kenya and Uganda. Those who were in agreement on the importance of private security saw the value in accredited private companies and individuals undertaking police work and in providing them with limited powers. Further they were in agreement with the use of private security officers being deployed to offer security and do the police work. Those in agreement sees few limits to involvement of private security on policing work since they are always under the police oversight

Skeptics on the other hand do not see any major role that private security sector does in policing. According to them, private security sector is a business venture that is geared towards making profits. As such, it makes it unfavorable partner in providing police service. Private security also breeds inequality in the system as only the affluent members of the society can afford to pay for

their services. To them police needs to take responsibility for policing, especially for those who cannot afford private security as that is why they pay taxes.

Based on the second objective, the study established that there are a number of implications for arming private security companies. These implications are legal, economic, social and security. Proliferation of arms, cost of training and employment, issues of registration and licensing were some of the discussed impacts. Arming private security guards was a security move that was aimed at boosting security in Uganda and Kenya likewise has made progress to legalise the arming of private security companies in order to derive the same benefits. However, the implications go beyond the traditional security aspects. Arming private security has far reaching ramifications especially legal because of issues of regulations and licensing, economic because of issues of remunerations and salaries, social because of the welfare of the security guards and finally security because of arms related impact. Proliferation of arms, cost of training and employment, issues of registration and licensing were some of the impacts discussed.

Based on the third objective which was to examine the measures that have been put in place to curb the effects of arming private security guards. The study established that the measures were in the form of legal and regulatory, security and social economic frameworks. To address these legal effects, there is need for registration of PSCs as well as proper licensing procedures. This will allow for the regulation of these companies by the state.

The social-economic measures included the issues of salaries and remuneration of private security guards, comprehensive insurance cover, ensuring there is code of conduct that all PSCs adheres to, recruitment procedures as well as training and capacity building. The security measures are of importance to this study because arming private security guards was a security move, therefore there is need to ensure that arming private security guards does not become a

security threat. Measures like monitoring and supervision are necessary to ensure that there is no proliferation and misuse of arms.

5.2 Conclusion

Conclusively, the study examined the implications of arming private security guards on national security in Kenya and Uganda. This was done by looking at the concept of private security, the implication of arming private security and measures to address the negative impacts. As such, the study objectives were fully discussed.

The study also fully utilized both qualitative and quantitative research approach using both primary and secondary sources of data to get the full depth of the issue being examined. This allowed the study to generate new knowledge due to reliance on primary data from both Kenya and Uganda.

The study objectives were also tested. The study confirmed that private security guards play an integral part in providing security in Kenya and Uganda. The study also confirmed that if not properly regulated and closely supervised, arming private security guards might lead to unintended consequences. This was supported by cases in Uganda where there were reported cases of misuse of firearms. Finally, the study through primary sources noted that through training and proper legislation, arming private security guards will improve the country's security.

The move to arm private security guards is a reasonable move in the face of increased crime especially terror attacks in the regions. However, it is also a costly affair that will drain resources and if not properly executed will bring more security challenges than envisaged.

Remuneration of armed private security guards is one area that ought to be seriously considered and a minimum wage limit should be established. This will require the legislature to come up with necessary amendments to the 2016 Act.

5.3 Recommendations

The study recommends the following:

- a. That more police officers be recruited and to be held responsible for the waning state of security especially in major cities and urban centres.
- b. That the number of armed private security guards should be set to a bear minimum to curtail the risk of proliferation of small arms and limit the number of arms at the hands of unprofessional individuals.
- c. That private security companies should not be allowed to purchase arms but rather to lease from the government in order to mitigate the risk of unscrupulous private companies who could use the opportunity for other unintended purposes either for their interest or be used as agents by other individuals. .
- d. Continuous review of the current regulatory framework with the aim of determining its relevance and to fill any identified legal loopholes in order to effectively manage negative implications arising from arming private security companies.

5.4 Areas for further study

This study suggests the following areas for further research:

- a. The suitability of recruiting and arming guards from national youth service is an area that requires research.

- b. Cooperation and possible conflict between armed security guards and the police.
- c. The potential human rights impact of arming private security companies.
- d. A technologically advanced security guards in the fight against terrorism.

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Appendix A: QUESTIONNAIRE

The purpose of this questionnaire is to obtain information that is relevant to my study on the “Implications of Arming Private Security Guards on National Security Management in East Africa: A Comparison between Kenya and Uganda”.

This is part of a research paper to be submitted in partial fulfillment for the award of a Post Graduate Diploma at the University of Nairobi, Institute of Diplomacy and International Studies.

You are assured that the answers that you provide will be treated with utmost confidentiality and will not be used in any way against you or in ways other than those envisaged in the study.

Read the items carefully and indicate by ticking () against your most preferred choice. Also state your views and opinions in the spaces provided.

Thank you.

SECTION ONE: PERSONAL DATA

1. Gender

Male []. Female []

2. Age

18 – 24 [] 46 – 55 []

25 – 35 [] 56 – 65 []

36 – 45 [] Over 66 []

3. Education Level

No Formal education []

Below CPE []

Below CSE []

Form 4 Certificate []

Diploma []

Degree []

Other (Please Specify)

SECTION TWO: CONCEPT OF PRIVATE SECURITY SERVICES

4. what do you understand by private security services?

.....
.....

5. What necessitates individuals and institution to seek private security services?

.....
.....

6. Have you used, currently using or would you be open to using private security services?

.....
.....

7. Would you prefer private security or are you comfortable with the public security services?

.....
.....
.....

SECTION THREE: THE IMPLICATIONS OF ARMING SECURITY GUARDS

8. What is your take on arming private security guards?

.....
.....

9. How will arming private security guards affect the provision of security services?

.....
.....

10. In your own opinion, what are some of the implications of arming private security guards will have on national security?

.....
.....
.....

SECTION FOUR: MECHANISMS OF CURBING THE NEGATIVE IMPLICATION ARISING FROM ARMING PRIVATE SECURITY GUARDS

11. Are there any negative implications you feel may arise from arming private security guards?

.....
.....

12. How do you think these negative implications can be mitigated?

.....
.....

13. Do you feel there are enough laws and regulations in place to prevent the negative impacts that might arise from arming security guards?

.....
.....

14. In your own opinion, is there more that the government and other policy makers can do to enhance and minimize the negative effects that may arise from arming private security guards?

.....
.....
.....
.....
.....