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Collaboration between public and private security in Kenya

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Declaration

I Nelly Ngugi Thurania hereby declare that this research project is my original work and has not been presented for a degree in any other university.

Signed-----~~Nelly Ngugi Thurania~~-----Date-----8th Nov, 2011-----

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This project has been submitted with my approval as University Supervisor.

Signed-----Mwagiru-----Date-----08/11/11-----

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Dedication

This work is dedicated to my family members

Acknowledgments

The completion of this project was made possible through the contribution of many people in one way or the other, whom I would gladly acknowledge. My husband, who has contributed greatly through encouragement and support, and my children for their understanding, thank you.

My lecturers, who took us through the whole course, thank you. My sister who always looked up information for my essays, typed, and printed my work at no cost, thank you.

My special thanks go to my supervisor, Professor Mwagiru for taking me through the process of writing this project. His painstaking to details, comments, contributions, insights and discussions are highly appreciated.

Abstract

The intention in this project is to look at the changed role that private security has begun to play in Kenya in many of the traditional public or state police spheres of operation irrespective of the lack of a formal framework for partnership policing. Additionally it examines how co-operation in policing and crime prevention can be realised and made mutually beneficial to all role players within the broad framework of a public-private partnership. Police and private security in Kenya have been functioning in mutually exclusive manner in respect to the provision of security. It is evident there is a need to establish a formal collaborative relationship, as both have many common goals, and the private security industry provides a major protective role in Kenyan society. The study investigates the reality of collaboration between the police and the private security in Kenya.

The study is framed upon the theoretical analysis of the concept of security from the perspective of collective good theory. It contends that public goods have features of being non-excludable and non-rival in consumption. They have benefits that cannot be confined to a single buyer. Once provided, many people enjoy them for free. Security is such a good.

The research used qualitative approach in collecting and analysing data. Both primary and secondary data were used. Primary data was collected by use of questionnaire and interview schedule. Primary data was collected in Nairobi which was purposely sampled for its large concentration of crime and security providers, both public and private. The data was analysed qualitatively in descriptive form.

The study established that collaboration exists between the public and the private security mostly in areas of common protection of public gatherings, transport and security of money, information exchange, and private security handing over suspected criminals to the police. However, conditions for effective cooperation are not yet well developed and needed changes are still in progress. Most of the collaboration was found to be ad hoc and at the street level where patrol officers, detectives and crowd controllers have regular contact. There is optimism that the current National Police Service Bills, 2011 will ensure continuous and sustainable police reforms that will consider police collaborating with the private security at the executive level.

Abbreviations

IPES----The International Police Executive Symposium

PSCs----Private Security Companies

KSIA----Kenya Security Industry Association

GSU----General Service Unit

E.U-----European Union

U.K-----United Kingdom

BSIA---British Security Industry Association

CCTV---Close-Circuit Television

NTA----National Taxpayers Association

KNBS---Kenya National Bureau of Statistics

KPR-----Kenya Police Reserve

PPPs----Public-Private Partnerships

CoESS—Confederation of European Security Services

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Chapter One

Introduction to the Study

1.1.1 Introduction

Collaboration between government law enforcement agencies and the private security in the provision of security to the citizens is the likely cutting edge to contain insecurity in Kenya. The two may be autonomous but a common denominator is that one agency or organization is not liable to effectively meet the need to fight insecurity without the coordinated work of many others. It is now recognised that crime prevention is fundamentally a community-wide responsibility and the long-held view that the police must solely shoulder responsibility in this area needs to be re-examined in Kenya.

The government has institutions in place for the purpose of managing insecurity. These do a commendable job but alone cannot manage security issues. The public security providers try on their own capacity to manage insecurity but insecurity still persists. There are key areas that require the collaboration of both the police and the private security providers to manage insecurity. This is because security environment is constantly changing and becoming more risky. Criminals are becoming smart and are using sophisticated methods of committing crimes. Management of security thus requires changing old perceptions and defining new targets. Security must be repositioned as a by-product of a wider ranging effort that aims to make the security organization agencies more resilient to its ever changing risk environment. Collaboration between public and private security providers is one sure way of managing insecurity.

In the recent past, Kenya has witnessed proliferation of private security actors. The major underlying reason for this has seemingly been the inability on the part of the state to provide law and order. Yet the Kenyan experience indicates that the pre-existing structures of political and economic dominance are simply replicated by private security providers. This

explains why insecurity remains a thorny issue in Kenya. The assumption is that collaboration between public and private security providers can ease the problem of insecurity.

However the nature of collaboration needs to be defined and mechanisms for regulation put in place. Security is a public good. Transparency and accountability, professional service, prevention and response to ordinary crime accrue to the community at large. There must be legal mechanisms in place to guide their partnership. This study seeks to establish whether there are any rules or regulations to standardize the operations of public private security partnership. It is against this background that this study sought to investigate public-private collaboration in the provision of security in Kenya.

1.1.2 Statement of the research problem

As insecurity increases in Kenya more and more people are turning to private security firms to ensure their personal safety and that of their families and properties. Attacks on business and individuals has adversely affected business viability, economic stability and in turn community stability.¹ The Kenyan security situation has deteriorated in recent years with an upsurge of car-jacking, bank robberies, and burglaries among other offences.² Government institutions, specifically the law enforcement agency is charged with the responsibility of providing internal security to the citizens. The demand arises out of states inability to provide adequate security to the people and enterprises. The evident gaps in security are first filled by non-profit neighbourhood groups who gradually graduate to vigilante and *militia* groups. They start charging protection fees to guarantee security. The consequence of this has been more and more insecurity and bigger security gaps. The private

¹ Muoria E., et al. Community Involvement in Public Safety Improvement: A Study of Nairobi-Kenya "Journal of Human Resource and Entrepreneurship Development", Vol.3 No.1 (July, 2011),pp.65 – 92, p.82.

² Ibid.

security firms come in to fill these evident gaps. Their services are available to people who can and are willing to pay³.

There is a rapid increase in illicit small arms, resulting from porous borders. The feeling is widespread that the government has failed to stem the proliferation of small arms in the country and there is no evidence that the states existing stock is properly controlled. There is a need to improve the working relations between the police and the private security sector in handling criminals and support in all the other operations in view of lawlessness. The public or the private security taken in isolation has not been able to provide adequate security. The task of this study was to seek to understand the role of public and private security, their collaboration and regulation, and the challenges faced in their endeavor to provide security.

1.1.3 Objectives of the study

- to identify opportunities for the private security sector in Kenya to work better and closer with the Kenyan Police,
- to identify areas of antagonism due to poor communication, attitudes, perceptions or procedures

Literature Review

1.1.4 Introduction

Although the function of the security provision has traditionally been assumed to be the preserve of the state, this assumption is increasingly considered to be untenable. The end of the ideological confrontation between the capitalist and communist blocks has failed to yield the peace dividend that many expected. It has however succeeded in changing the dimension of security from freedom from external threat of nuclear fallout to freedom from internal state collapse¹. For much of the Cold War period, security has been understood in

³ Wairagu, F et al Private Security in Kenya: "Security Research and Information Centre" (June 2004)pp.3-4.

¹ Human Development Report " (New York: Oxford university Press, 1994).

terms of national security, which was largely defined in militarized terms. This did not preclude the acceptance of broader concepts such as common and cooperative security, but these were clearly linked to national security concerns in the politico-military field.⁵ The literature is discussed under the following: security as a public good, security governance, security and the state, transformation of public security and the emergence of private security among others.

1.1.5 Security Governance

For much of the Cold War period, security has been understood in terms of national security, which was largely defined in militarized terms. This did not preclude the acceptance of broader concepts such as common and cooperative security, but these were clearly linked to national security concerns in the politico-military field. The post-bipolar world, however, has been marked by a substantive widening and deepening of this traditional concept in both academic and policy discourses on security.⁶

There is a growing recognition that in the age of globalization and with the proliferation of internal wars and 'failed states', individuals and collectivities other than the state could and, indeed, should be the object of security. Following this view, security issues should not be addressed on the traditional national and international levels alone, but take into account the security concerns of individuals and groups. This led to the emergence of alternative security concepts such as 'human security' and 'societal security'.⁷

Security governance covers a wide range of phenomena such as the introduction of self-government at the local or sectoral level, the outsourcing of central government functions to the private sectors, the privatization of security in established democracies and warlordism

⁵ Shin, D. I., and G.Segal. Getting Serious about Asia-Europe Security Cooperation. "Survival" vol. 39, no. 1 (Spring 1997)pp. 101 - 170, p. 140.

⁶ Hanggi H. Making Sense of Security Sector Governance in Hanggi and T.H. winkler. "(eds)-Challenges of Security Sector Governance" (Munster LIT. 2003)pp. 1- 40, p.5.
Ibid.

in 'failed states', the increasing network-type of cooperation between governments, international institutions and private actors and the post-conflict reconstruction and governance of states and other entities under the auspices of international institutions.⁸

At the state and sub-state level, governance is mostly exercised by governments – hence governance by governments – except for 'weak states' or 'failed states' where the government is forced to share powers with other actors, be it international institutions, foreign powers, armed rebel forces or criminal organisations.⁹

At the level of the international system, in the absence of a world government, governance takes the form of governance with (multiple) governments by way of rule-based cooperation between governments, international institutions and transnational actors such as corporate business and non-government organisations. Thus, governance is more encompassing than government; it helps to grapple with the complex reality of the contemporary world in which governments are still the central actors in domestic and international affairs though they increasingly are seen to share authority with non-state actors on multiple levels of interaction.¹⁰

At the level of the international system, security governance refers to the 'security architectures' on the global and regional levels. Measured by the degree of fragmentation of authority in security policy-making, Europe is certainly the world region which has witnessed the strongest transformation of the security system in terms of a development from government to governance. Not only have national governments and international institutions such as the Organisation for Security and Cooperation in Europe (OSCE), the North Atlantic Treaty Organisation (NATO) and the European Union (EU) expanded their security functions

⁸ Hanggi H. Making Sense of Security Sector Governance in Hanggi and T.H. Winkler. "(eds)-Challenges of Security Sector Governance" op. cit, p.7.

⁹ Krahmhann, E., Conceptualizing Security Governance. "Cooperation and Conflict" vol.38, no. 1 (2003),pp 5 – 26. p.11.

¹⁰ Hanggi H. Making Sense of Security Sector Governance in Hanggi and T.H. Winkler. "(eds)-Challenges of Security Sector Governance" op. cit, p.7.

in the post-Cold War period, but also a variety of private actors, ranging from charities to private security companies, have emerged in local, regional and trans-regional security.¹¹ A fragmentation of authority in the security realm could also be observed in west and central Africa where, due to widespread internal conflicts, private and sub-state actors and external forces have increased their involvement in security governance, though more often than not by way of aggravating already poor governance. In the Middle East, South Asia and Northeast Asia, on the other hand, security governance appears to be characterised by the absence of regional security arrangements and the central role of governments in security affairs which does not come as a surprise given the predominance of inter-state conflicts in these regions.¹²

At the state level, security governance refers to the organisation and the management of the security sector.¹³ The security sector includes all the bodies whose main responsibilities is the protection of the state and its constituent communities – ranging from the core structures such as armed forces, police and intelligence agencies to those institutions that formulate, implement and oversee internal and external security policy. Apparently, security governance at the state level can be good or poor.¹⁴

Since the end of the Cold War, the bases and modalities of security and governance, both within and between states and societies, have been rapidly evolving. The concept of 'governance' is quite a recent one which has come into use in the context of globalization, reflecting the fragmentation of political authority among public and private

¹¹ Krahmhann, E., Conceptualizing Security Governance. "Cooperation and Conflict" vol.38, no. 1 (2003), op.cit., p.10.

¹² Hanggi H. Making Sense of Security Sector Governance in Hanggi and T.H. Winkler. "(eds)-Challenges of Security Sector Governance" op.cit, pp.7 – 8

¹³ Tanner, F., Security Governance: The Difficult Task of Security Democratization in the Mediterranean. "Unpublished Conference Paper" (Geneva Centre for Security Policy: Geneva, 15 November 2002)pp.5-7.

¹⁴ United Nations Development Programme (UNDP), "Human Development Report 2002: Deepening Democracy in a Fragmented World", (Oxford University Press: Oxford, 2002), pp.85-100.

actors on multiple levels of governance – national, sub-national and international – which accompanies globalization.¹⁵

1.1.6 Security as a Public Good

Justice and security are a fundamental public good and service, no different from access to potable water, basic healthcare, and primary education. Their distribution and delivery ought to be accountable, affordable, accessible, and appropriate to and for all citizens and residents of a country. Conceptually, the issue is not who delivers the public goods and services, as there are a number of ways that justice and security, as public goods, can be provided. Rather the obligation of any state is to ensure that its distribution and delivery meet certain standards and principles--accountability, affordability, accessibility, and appropriateness.¹⁶ There are three basic means by which justice and security as a public good and service can be provided, none of which are mutually exclusive and most often they exist in various complex combinations: the state delivers the public good and service through its institutions and agencies; the state ‘contracts out’ delivery to service providers; and non-state networks provide service either in law or in practice.¹⁷

However, because the fragile state is unable to provide an adequate level or equitable distribution of public goods and services, the delivery of security has been, in many instances, privatized. Private security companies offer security as a product/commodity; and criminal groups, acting outside of the law, whether with or without local support, deliver security as part of their criminal enterprise.¹⁸

The idea of security as a public good is at heart of modern sovereignty and ethics, and the relationship between the public and the private is intimately connected to the

¹⁵ Krahmman, E., Conceptualizing Security Governance. “Cooperation and Conflict” vol.38, no. 1 (2003), op.cit, p. 8.

¹⁶ Scheye F., State-Provided Service, Contracting Out, and Non-State Networks. “The International Networks on Conflict and Fragility”. (OECD,2009)p.2.

¹⁷ Ibid.

¹⁸ Ibid. p.3.

symbolic relationship between security and the state. At one level, the very origins of the modern (and later liberal-democratic) state were defined by its opposition to the notion of private security. In the modern state, security was not to be decided on or provided by private individuals, nor was violence to be wielded differently by different classes. Instead, security was to be a public function, applying equally to all subjects. The consolidation of modern sovereign power, the creation of a public political sphere separated in principle from private interests - and especially from the exercise of private violence – thus corresponded with a conception of security as a public good, and was an essential element in liberal (and later democratic) visions of individual liberty and proper governance.¹⁹

The idea of security as a public good is historically a key component and reflection of the development of modern politics, and the progressive restriction of private actors in security long seemed almost pre-given. Historically, the concentration of security in the hands of state authorities and agencies was often far from consensual. The agents and agencies of state security always possess the potential to pose dangers to the very citizens they claim to protect, and they continue to do so today, with the actions undertaken by public actors in the name of security all too frequently bearing at best a tenuous connection to the substantive promotion of the public good or the security of citizens.²⁰

The distinction between justice and security as a public versus a private good and service is a crucial one. In the former instance it is a good and service intended to be available to all, for the benefit of all, and from which no one is excluded. In the latter case, it is either a product/commodity sold for the enrichment of the seller to be privately consumed by those who can afford it or a service provided after payment is demanded or is extorted.²¹

¹⁹ Abrahamsen, R., and M. Williams, The Ethical Changes of Security Privatization (International Peace Research Institute Sept. 2009)p.6.

²⁰ Ibid, p.7

²¹ Ibid

It is important to recognize, however, that this buying and selling of security effectively relegates it to a business model between two distinct entities, a buyer and a seller. This suggests that these providers do not deliver security as a public good and service; nor is it consumed as such. For both parties, security is a private good to be, respectively, delivered and consumed, whether it is the protection of a bank, its employees and customers or a neighborhood, its residents, and the guests of those residents.²² Security is made available to those who can afford to pay for its delivery. Those who cannot are excluded from receiving security from a private provider. Individuals and groups, who do not pay for service, may still derive benefit from its delivery, but their access to it falls under the category of free-rider, such as the housekeeper of a wealthy couple while in the protected neighborhood or the stores on either side of a bank, whose guards patrol outside the bank's front door.²³

Noting that this delivery of security is of a private good distinguishes these providers from non-state/local justice and security networks, even as they both distribute and deliver security. The private security provider sells a product/commodity. It advances the interests of its proprietors, most often, by increasing its delivery of security to ever larger numbers of customers and/or by raising the price of its service. Those customers can hold their private provider accountable by demanding a certain level of service. If they do not receive what they deem to be an adequate service, they may purchase security from another private company.²⁴

1.1.7 Transformation of Policing Core Tasks

Transformations in policing worldwide have led to significant debate on how security of the general public can best be achieved. The police role is being redefined and policing is

²² Caparini M Security governance and privatization of Security, cited in Scheye E, State-Provided Service, Contacting Out, and Non-State Networks. "The International Networks on Conflict and Fragility" (OECD,2009)p.15.

²³ Scheye E. State-Provided Service, Contacting Out, and Non-State Networks. "The International Networks on Conflict and Fragility". (OECD,2009)p.15.

²⁴ Ibid.

being diversified. Policing is being transformed from being authorized and provided for by the state alone, towards a situation whereby policing is being demanded and dispensed by a host of non-governmental groups and methods. A growing fear of crime has increased reliance on private security and security products. The police monopoly on expertise within its own sphere of activity has ended. Policing now belongs to everyone, in activity, responsibility, and in oversight. Prioritisation of policing core tasks is demanded from different levels and perspectives - individual, community and national levels.²⁵

The distinguishing features of the new paradigm are the separation of those who authorise policing from those who do it and the transference of both functions away from government and also the role of the public police may be changing significantly. While people now expect high levels of quality, standards and satisfaction when they contact their police, it is increasingly difficult to achieve these high standards in all police functions at all times. The future of policing will be significantly different than today with service supply more diversified and 'police' services being delivered by many other suppliers than the police.²⁶

Debates about security have typically been interpreted mainly in terms of what it means to the nation state, and primarily in terms of military security. International relations discourse during the cold war viewed security purely in military terms²⁷. Proponents of the realist school of thought, have argued that states act in the international arena to maximize their own security, defined in terms of power. Security is understood to mean a situation in which the state is free from external threat.

The liberalist school lays primary emphasis on the economic and technological interdependence of states and societies in the contemporary world setting. This means that the

²⁵ I ernihan , M.and A. Siochana , What Core Policing Services will Survive the Challenging Policing Environment of the Future? "Management Journal" (Dec.2008)p.1 – 42, p. 3.

²⁶ Ibid. p.27

²⁷ Hyden, G. Livelihood and Security in Africa. "Africa Studies Quarterly", Vol.1, No.155 p.11 in Wairagu., et al. Private Security in Kenya: security Research and formation Center (SRIC): (June, 2004)p.12

sense of insecurity for individuals, firms, and nations that follows from uncertainty associated with liberal capitalism is regarded as a necessary evil. Yet even liberals agree that policies that enhance security are necessary.²⁸

Those who oppose the state-centric view of security argue that security is not only a concern for states, but also for individuals and communities. The ultimate goal for public provision of security is to make society run smoothly by maximizing order. Police is usually understood as the organized civil force of a state, dealing with detection and prevention of crime and maintenance of law and order. The police are persons with a special legal status employed by governments to preserve the peace. The major benefit of the public state police is the public accountability that they enjoy in most democratic parts of the world.

1.1.8 The Philosophy behind the Emergence of Private Security

As the state's capacity to fund public services decreased, the private sector expanded to fill various "gaps" that ensued – including in the area of security. While it is certainly the case that under neo-liberal policies that many areas of public spending have decreased, it is difficult to make this case for the security sector. Indeed in many countries spending on the public security sector has increased at the same time as the private security sector has grown. The idea of a gap filled by private security cannot therefore be understood as an automatic result of the retrenchment of public capacities.²⁹

Secondly, the policies of outsourcing did not represent a simple retreat of the state from security provision, but rather were part of a crucial relocation of its place within such provision. A more complex process than mere fiscal restraint has been underway – one involving both the commodification of security and attempts by the state to make social actors of all kinds – individuals, corporations, communities – responsible for a greater

²⁸ Wairagu, F. et al Private security in Kenya: SRIC: (2004)p.12

²⁹ Abrahamsen R, and C. Williams , Ethical Challenges of Security Privatization (University of Ottawa, Sept. 2009)pp1 – 52. P. 12

involvement in their own security. The increased role of private security, in other words, is part of a general intensification of security activity across societies. This process has often been abetted by the state and, in many countries, draws power from an increasing demand for security from other sectors of society.³⁰

The expansion of private security has been the focus of increasing research in both sociology and criminology, where it has recently given rise to theories of networked security governance. The most fundamental claim of networked security governance is that security can no longer be seen as the exclusive monopoly of state institutions. Instead, we are seeing a process of pluralisation through which both the provision and governance of security is dispersed to include a variety of different actors and agencies. Security is characterised by pluralization and commodification, and by the rise of private actors and hybrid public-private agencies³¹ organised within network.

The maintenance of security and good order in the community is now being undertaken by organisations traditionally known as 'police', although there is an increasing trend towards the use of privately funded bodies, commonly referred to as 'private security'. Whilst this development is concerning for some, the commission of privately resourced organisations to provide protection is nothing new - in fact this method predates the establishment of community-funded, government administered police services³².

The private security sector in Africa is in itself a reflection of a global trend, by which the post-Cold War triumph of neo-liberalism at the turn of the 1990s and its global expansion since then have given impetus to a shift towards privatisation. This is particularly so within the security sector in more recent times, with the outsourcing of non-core functions to Private Security Companies (PSCs) in the west and the exportation of these privatised

³⁰ Abrahamsen R, and C. Williams , Ethical Challenges of Security Privatization (University of Ottawa, Sept. 2009)p.12

³¹ Johnson and Shearing (eds), Cited in Abrahamsen, R et al. Globalisation of Security.(University of Wales Aberystwyth, 2005) p.7

³² Nalla M. and G. Newman, A primer in private security.(Harrow and Weston, New York 1990)p.16.

services to conflict and post-conflict settings (Iraq and Afghanistan).³³ Thus the remit of the Weberian state as wielding the monopoly over the means of legitimate violence has shrunk with privatisation, giving way to an increasing ceding of the traditional security space to private actors on a global scale. However, while the more stable countries of the West have managed to hold on to the control over the use of legitimate violence by retaining their core security functions and effectively regulating private security providers, this is far from the case in Africa. Rather it is the low institutional capacity of the African state to deliver the public good of physical security for citizens efficiently and effectively that creates the security vacuum, which is increasingly being filled by the private sector in response to genuine demands of citizens for protection.³⁴ This has meant that the African state is unable to retain its core security functions and to act effectively as regulator of private actors.

What is known today as private security is in effect the logical transformation of traditional mercenary activities in a variety of new forms. Private security can be defined as the purchase of personal and physical protection from threats, either as an individual or collectively as a group. The basic feature of the private industry is that its activities, structures and performance are based on free enterprise business principles. Groups that are caught up in the cycle of violence and insecurity are opting for self protection

The private provision of security and military services challenges conventional assumptions about the roles of the nation state as the main protagonist in military affairs as the guarantor of physical security for its citizens. In the absence of effective legal or regulatory structures, such activities raise issue of legality, legitimacy and accountability in the spheres of security policy. According to sociologist Max Weber's conception of the modern nation state, a defining characteristic is the nation states monopoly of the legitimate

³³ Schreier, F., and M. Caparini, Privatising Security: Law, Practice and Governance of Private Military and Security Companies. Geneva Centre for the Democratic Control of Armed Forces (DCAF). "Occasional Paper" No. 6.(March 2005)p.4

³⁴ Holmqvist, C., (2005) Private Security Companies: The Case for Regulation. SIPRI Policy Paper No. 9. (Stockholm International Peace Research Institute, January 2005)p.11

means of violence, including the sanctioning, control and use of force³⁵. The rise of the contemporary private military and security industry began in the early 1990s, with the emergence of private security providers with a clear corporate structure

The most crucial factor in contributing to the emergence of security governance and the growing role of private security companies in Europe and North America has been the increasing fragmentation of resources. In the immediate aftermath of the Cold War, this development was driven by public demands for a peace dividend. In addition, governmental resources have become more and more limited because of the rising costs of standing armies, professional training and armaments research and development. As European and North American governments have sought more cost-effective ways for the provision of national security, they have turned to private actors.³⁶

Justification of the research

Security concerns, be they individual, corporate, or government is of great concern the world over. Why the public agencies and the private security providers continue to do a commendable job in security provision, little in the available literature suggests their collaboration in security has been substantially analysed. The justification of this study is based on the need to understand the effectiveness of security providers in their collaborative endeavours and the challenges faced. Public-private in security provision may have begun with the advent of modern policing but there is little in the literature to document it. Private coordination and cooperation with the police is unstructured and often ineffective.

Even where the private security industry is well regulated like in South Africa, the legislation does not make provision for monitoring body. The lack of regulation of private

³⁵ Weber, M: ed. T. Parsons; *The Theory of Social and Economic Organization* (Free Press: New York, 1964), P. 154: Cited in Holmqvist C, (2005) Private Security Companies: The Case for Regulation. SIPRI Policy Paper No. 9. (Stockholm International Peace Research Institute, January 2005)p.11

³⁶ Holmqvist C, (2005) Private Security Companies: The Case for Regulation. SIPRI Policy Paper No. 9. (Stockholm International Peace Research Institute, January 2005)p.11

security industry is an indication of weakness of the state. Lack of cordial working relationship between the police and private security may reach a crisis due to the fact that public security forces have an upper hand in security activities. There is also a need to generate data on collaboration in order to inform the policy concerns so that policies are developed to regulate it in order to make it efficient in security management. There is a dire need for a comprehensive approach to confront the rising levels of crime in the country and the fact that various security providers cannot manage security is further justification for this study.

Theoretical Framework

This study entailed the theoretical analysis of the concept of security from the perspective of collective theory. The theory of collective goods contends that there are inherent differences between 'collective' and 'private' goods. According to Collective Goods Theory, two features characterize a pure collective good. Firstly, it is non-excludable, referring to the inability to exclude a potential user or beneficiary from a good. Non-excludable goods are those, such as fresh air, that are free for the taking. Secondly, a pure collective good is non-rival in consumption - it is not diminished by consumption or use. A non-rival good has the same benefits irrespective of whether one or any number of people uses it, such as a lighthouse for instance. By contrast, private goods are those that are both excludable and rival, that is, their benefits can be restricted to a limited number of users and every user reduces the utility of the good for others.³⁷

Public goods are recognized as having benefits that cannot easily be confined to a single 'buyer'. Yet once they are provided, many can enjoy them for free. Without a

³⁷Krahmann, J. The Commoditization of Security. Full Research Report. ESRC. End of Award Report, RES-000- 22-1516. Swindon: ESRC (2008), p.3

mechanism for collective action, these goods can be under-produced. This definition allows portrayal of security as an “under-produced good”.³⁸

Certain goods or services, among them security, are said to have special characteristic that their enjoyment cannot be restricted to those who have actually financed their production. Rather, people who do not participate in their financing can also draw benefits from them.³⁹

The producers of security services would have to diversify their offerings to a considerable degree because a highly diversified demand for security products among consumers exists.⁴⁰ There are a great number of private security producers in a great number of countries alongside the state. They seem more successful in resolving social conflicts than their public counterparts, yet collaboration between the two groups does better in dealing with all forms of crime. This justified the theory of Public Goods to inform this study.

Hypotheses of the study

- There is great number of opportunities for the private sector in Kenya to work better and closer with the Kenyan police
- Antagonism exists between the police and the private security providers.

Methodology

Qualitative research approach was the primary method of data collection used. It involved data that was rich and would probe for information in the face to face interviews using the interview guide. The study used both primary and secondary data. The research involve in-depth analysis of relevant secondary data sources such as books, academic journals and conference papers from the library and any other resource centre in the country,

³⁸ Hoppe, H. H. Fallacies of the Public Goods Theory and the Production of Security. “The Journal of Libertarian Studies”. Vol.9, No.1 (Winter 1989) pp.3 – 62.

³⁹ Ibid.

⁴⁰ Ibid, p .38.

and the internet. The aim is to collect relevant written information to address the central concerns of public-private collaboration in security provision.

Data was collected by use of questionnaires and interview schedule. A detailed questionnaire was developed to solicit responses to prompts designed to extract data consistent with the objectives listed above. Standardized questionnaires were prepared and administered to the respondents to be collected at an agreed time and venue

The target groups for the questionnaire were: Private Security Sector; Personnel identifying with the private security sector and the police. It included those employed in the private industry, those licensed to perform duties in the industry, such as managers, administrators, supervisors, educators, as well as operational personnel such as security officers and guards.

As regards the Kenya Police Department, particular emphasis was focused on members performing operational tasks who were likely to have greater contact with the private security sector. The questionnaires were distributed to 20 police officers and 20 personnel involved in the private security industry. Questionnaires were distributed so as to ensure as wide a range of input from all levels and areas of the private security sector. There was personal contact to ensure a high return rate. Out of the 40 questionnaires distributed, 35 were returned. Private security personnel returned all their questionnaires. The high rate of response was due to personal involvement of the researcher.

The questionnaire allowed for responses that were forced multiple choices with no option for an explanation. The closed questions allowed the respondents to choose among provided responses in order to avoid ambiguity. Some of the questionnaires were self-administered and others were face to face. It was divided into six sections as follows; Personal Experience, Co-operation, Responsibilities, Personal Attitudes, Resourcing, and

Demographic questions. Answers allowed a comparison to be made between the different sectors, namely police and the private security

In-depth interviews were used for police chiefs, and managers of PSCs. some business owners and some of the guards. The interview schedule allowed the respondents to ask for clarifications and also gave researcher and opportunity to probe the respondents to get maximum information. The rapport developed in the course of questioning enabled the respondents to divulge very useful information to the researcher.

Some Private security companies were purposively sampled for study due to noticeable presence in many business premises and residential areas. Simple random sampling technique was used to select the population under study from among the police, security guards and business owners.

The research was undertaken in Nairobi, Kenya. The city was sampled purposively because of its big share in security services. It is in Nairobi city that major players in the private security industry are located and the demand for services is most pronounced. The sampling of the Nairobi is explained by the fact that it has the highest concentration of populations and property in the country. It is also in the capital city that most elites in the society live, as well as large concentrations of the poor and unemployed people. Crime is widespread in urban areas relative to the rural areas raising the need for private security among the propertied. This is compounded by the inability of the government agencies to provide adequate security to the people. The choice of Nairobi was also judgmental, in that, it has the headquarters of most major private security companies operating in Kenya as well as police secretariat. All the information and operations are coordinated in Nairobi. Primary data for the research was collected with ease.

The random method was used to choose the respondents and the sites. Respondents were randomly chosen from among the police, the private security providers, and the

business owners. The aim was include within the sample views of security providers and the beneficiaries of security concerning collaboration in security provision. The interview guide was a loosely structured document with the most important questions and issues handwritten. The raw data was the systematically organized, interpreted and presented. Qualitative method was used to analyse the data. The wish to understand the actor, its problems, motives and background was the basic motive for the qualitative method. Again, variables in this study would better be understood in descriptive form. The analysis was done on the basis of the data collected. Qualitative data was analysed using coding, pattern and content analysis to make inferences by systematically identifying specific characteristic of the information.

Limitations of the study

The work had its limitations. There were many reasons for this, not least that the private security sector is still largely closed to outside scrutiny from government and also from the public. High competition within the industry leads to secrecy. Secondly, PSCs are so poorly regulated and their working conditions so questionable that firms were fearful of exposure. High levels of unemployment, fear of losing jobs, and emotional memories of poor conditions dissuaded employees from giving their stories. Police officers were also reluctant to give information, perceiving questions on security to be the prerogative of the state, and some senior officers were inaccessible or too busy.

Chapter outline

Chapter one introduced the topic of the study, statement of the problem, objective of the study, literature review, theoretical framework, justification of the study, methodology, and chapter outline. Chapter two focused on the regulation of private security industry in general and in Kenya in particular. Chapter three analyzed global areas and issues of collaboration between public and private security providers. Chapter four identified areas of

collaboration in the context of Kenya while incorporating the summary of the research findings. Chapter five provided conclusions of the study.

Definition of Terms

Private: - private can be described as: of, relating to, or provided by a private individual or organization, rather than by a public body or the state.

Security: - Security services deals with protection of property, persons and information

Private Security: -- the state of being in which individuals or groups may pursue their ends without disruption or harm and without fear of loss or injury.

Public Provision of Security: - Public security includes a variety of services produced by the state. The inputs or 'raw materials' consists of crimes and offenses.

Public Security-----Public police who are employed by the state and are publicly funded to deal with crime and order

Private Security-----those who are privately paid to undertake functions which contribute to the field of security but on commercial basis separately or in addition to the work of public security (the police)

Governance-----Exercising political power to manage nation's affairs

Security-----Sense of safety or freedom from harm, harassment, fear, and social danger either at an individual level or corporate

Collaboration—Working together to supplement areas each is disadvantaged. It is used interchangeably with cooperation, partnership and liaison

Chapter Two

Regulation Private Security

2.1 Introduction

The literature review in Chapter One established that although function of the security provision has traditionally been the preserve of the state, this is considered to be untenable. The agents and agencies of state security possess the potential to pose dangers to citizens they protect. Security is a public good and need to benefit all citizens. The assumed failure of state to provide this public good has brought in informal security providers, such as neighbourhood watches and vigilantes, and formal private security providers. However lack of proper regulation of non- state security providers complicates the issue of security provision and eventually results to more insecurity.¹ The assumption is that collaboration between public and private security providers in a regulated environment will ease the insecurity.

In Kenya crime and insecurity pervade social life, mistrust of the police is widespread, and increasingly many sections of the population rely on some form of private security, whether informal community watches or commercial security companies. More than 2.000 Private Security Companies (PSCs) operate in the country, but as there is no regulation of the sector the majority are poorly resourced, offering low-quality services and paying wages well below the minimum wage. Private security is unarmed, which given the high level of firearms in Kenya makes manned guarding an extremely dangerous job.² This chapter explores the need for regulation and various levels of regulation in general and in context of Kenya.

¹ Wairagu, et. al: Private Security in Kenya (security Research and Information Centre (SRIC), Nairobi, 2004).p.16

² Abrahamsen, R et al. Globalisation of Security.(University of Wales Aberystwyth, 2005) p.1

2.2 Impact of insecurity within the context of Kenya

The threat to peace and insecurity in the 21st century include not only international war and conflict, but civil violence, organized crime and terrorism. Within 'non-conflict' situations, crime and insecurity have gained recognition as development constraints. This is supported by a United Nations Report which states that, among other things 'crime impairs overall development of nations, undermines spiritual and material well being, compromises human dignity and creates a climate of fear and violence.'³ This engenders personal security and erodes the quality of life. Increased incidences of crime, thus disturbs security and creates and provokes a situation of insecurity.

In the Kenyan context, the question of crime and security is reflected in the concerns of ordinary citizens. According to the Kenya Poverty Reduction Strategy Paper, insecurity is one of the key issues that have been identified by many Kenyans communities as a source of poverty. In support of this statement, the Kenya Economic Recover Strategy for Employment⁴ states that addressing safety, insecurity and rule of law are fundamental if economic growth is to be achieved. This is in addition to the contribution of efficient enforcement of law, the maintenance of public safety and guaranteeing of law and order which is essential to economic growth and improvement of life'.

The question of crime and insecurity has become paramount for the development of Kenya both nationally and internationally. Kenya, considered to be a 'beacon of stability and peace' in the Horn of Africa, greater Eastern Africa region and Africa plays an important role. It serves as an economic and business hub for both national and international investors, is a tourist destination, and its geographical positioning has made it a key player in

³ UN Report 1992:6 cited in Kariga, L., A Profile on Crime and Insecurity in Kenya: "Development Management Forum" (MPDF)p. 1

⁴ DFID Country Assistance Plan (2004-2007) in Kariga, L., A Profile on Crime and Insecurity in Kenya: "Development Management Forum"(PDF)p. 1

international trade serving many landlocked countries. Kenya also serves as a central point for humanitarian aid to the large number of displaced victims of war in its neighbouring countries.⁵

High incidences of crime and insecurity thus have a strong bearing on the overall development in Kenya. They influence levels of investment both nationally and internationally, the ability of citizens to engage in sustainable businesses: agricultural production and facilitate movement of goods and services across international borders. Crime and insecurity undermines the freedom of association and movement of citizens, create a sense of fear and intimidation and hamper the spiritual, economic and social development of individuals.⁶ Physical and property security is critical in ensuring human and economic development. Security is a prerequisite for generating wealth and, by extension, brings about reduction in crime and lawlessness. As declared by Stuart Mill: “security is the most vital of all interests and security of person and property are the first needs of society”⁷.

2.3 The Character of crimes in Kenya

Crime incidence varies across regions. Evidence from the literature depicts interesting crime patterns in Kenya. Rift Valley, Nairobi and Central provinces account for more than half the total crimes reported to the police between 2004 and 2007. In terms of trends, crime is increasing in Central Province, with reported declines in Nairobi.⁸

Robbery is the most prevalent crime. The 2003 Kenya Crime Survey ranks robbery as the most highly reported crime in Kenya.⁹ Businesses are the main victims of robbery incidents. Most of the robberies are carried out in commercial enterprises, such as shops, banks and bars in both urban and rural areas. Most of the robbery incidents occur in business

⁵ Kariga, L., “A Profile on Crime and Insecurity in Kenya”: Development Management Forum (DMF) p.1

⁶ Ibid

⁷ Mill, S. in Acton, (ed.), H. Unitarianism (1861) on Liberty and Considerations on Representative Government. Unitarianism. (London. Dent. 1992) p. 355.

⁸ “Kenya National Bureau of Statistics (KNBS)”. (2009)p.242

⁹ National Taxpayers Association (NTA): Scoping Study: “Public Security Services in Kenya”(March, 2010)p.15

premises, mainly in urban centres¹⁰. What should concern policy makers is the fact that there are more robbery incidents targeted at businesses despite the heavy investment by businesses in private security. However, rightly, researchers in the field of security are quick to point out that these guards are not armed and they are often intimidated and overpowered by the robbers who have access to sophisticated firearms.¹¹ Many of the robbery incidents occur in residential areas and on public roads. Robbery occurs in the neighbourhoods of low income earners, and those of high income earners despite high income areas having security beefed up by perimeter walls and manned by private security guards. It is also argued that urban residents are more likely to experience crime away from home than rural residents.¹²

Most incidences of criminal activities such as murder, robbery with violence, carjacking, cattle rustling and motor vehicle robberies reported in the country mainly involve use of small arms.¹³ This suggests that policies that would help to reduce the supply of arms would most likely lead to a reduction in robbery incidents.

Nairobi province and Mombasa district record the highest crime incidence. This contrasts sharply with rural provinces, such as Rift Valley and North Eastern provinces. Evidence shows that serious crime comprising of murder, robbery with violence, carjacking, robbery without violence, sexual offences and arson, is more prevalent in urban areas. Conversely, petty crimes comprising of assault, burglary, theft, motor vehicle break-ins are the reported crime incidents in the rural areas.¹⁴

Most of the crime incidents reported occurred at night. Muchai observes that lack of lighting on public roads at night is a major cause of the escalation of crime, especially robbery. Further, he notes that efforts to deter day-time robbery, has been frustrated by public

¹⁰ Muchai, A., Kenya Crime Survey, Nairobi: "Security Research Information Centre". (2003),p.23

¹¹ Ibid

¹² National Taxpayers Association (NTA): Scoping Study: "Public Security Services in Kenya" (March, 2010)p.15

¹³ Republic of Kenya (RoK) KNBS (2009a)p.242

¹⁴ Muchai Economic survey (GoK 2006a) cited in National Taxpayers Association (NTA): Scoping Study: "Public Security Services in Kenya"(March, 2010)p.16

apathy towards crime. This, according to Muchai, is because of several reasons: public fear of reprisal by criminals; delays in prosecutions which discourages the public from cooperating with the police; and, low rates of successful prosecution and conviction of criminals.¹⁵

The proliferation of small arms and ammunition has contributed to the deterioration of security in Kenya, and in particular the North Rift Region. Instabilities in neighbouring countries of Somalia, Ethiopia and Sudan have created an environment that allows trade in small arms and ammunition to thrive.¹⁶ The influx of the refugees creates an avenue for the flow of small arms and ammunition. Some of the smuggled arms eventually find their way to Nairobi. This increase in the supply of illegal small arms and ammunition has contributed to the upsurge of crime. The Economic Survey of 2009 notes that ‘most incidences of criminal activities reported in the country mainly involve use of small arms. Banditry and armed raids to steal livestock are a common occurrence in northern Kenya. The issue of arms in Kenya as with other countries is one of both demand and supply.’¹⁷

Illegal gangs continue to thrive in Kenya. There are several factors that contribute to the formation of gangs, such as internal factors – personality, fear, pride, intimidation and external factors – unemployment, the cost of living, and marginalisation. The major challenges to countering gangs include ambiguity regarding how to define a gang member, classify gangs and gang-related activities and/or crimes, and estimate total gang membership. This is the case in Kenya where it is evident that there is no single definition of a ‘gang.’ The public use the term gang to apply to groups, such as ‘*Mungiki*’, ‘*Taliban*’ and ‘*Kamjesh*’, because they are large in number, terrify people and have some degree of power over individuals and businesses. Militias tend to be tribal or region based and members

¹⁵ Muchai Economic survey (GoK 2006a) cited in National Taxpayers Association (NTA): Scoping Study: “Public Security Services in Kenya” (March, 2010)p.16

¹⁶ UNDP 2006 in National Taxpayers Association (NTA): Scoping Study: “Public Security Services in Kenya” (March, 2010)p.19

¹⁷ Government of Kenya Economic Survey (2009)p.242

comprise mainly of young, often unemployed men. These gangs are often used by politicians to attack opposing communities. Such incidents normally escalate during an election.¹⁸

2.4 An Overview of Private Security Services in Kenya

A significant share of the market of private security market is controlled by few big sized multinational companies that offer comparatively higher standards of service than the smaller firms. Wairagu et al, note that the private security industry remains largely unregulated by government. This is a critical omission on the part of government as it allows industry players to lower standards of security services provided to citizens. Further, Wairagu notes that although there are over 2,000 security companies operating in Kenya, only 21 companies were members of the Kenya Security Industry Association (KSIA), an association of private security firms. This means that majority, fall outside the ambit of the industry self regulation mechanisms.¹⁹

Besides, a sizeable number of locally owned security companies operate illegally, since they are not registered by government authorities. There is no specific government body to regulate the industry, neither is there a policy framework that sets the rules and guidelines for industry. As a consequence, many companies pay little attention to labour laws, work ethics and service standards. Employees of the private security companies are often young, incompetent, inadequately trained and equipped, and lack the motivation to deliver quality services.²⁰

Wairagu et al finds that the majority of the workforce in the private security industry comprises young school leavers aged between 18 and 30 years. The survey further notes that the majority of the workforce has secondary level education or less. In addition, the

¹⁸ Wairagu et al, National Taxpayers Association (NTA): Scoping Study; Public Security Services in Kenya (March, 2010)p.21

¹⁹Ibid p.27

²⁰Ibid, p.21

authors observe that a number of the guards do not have insurance which leaves their dependants vulnerable in the event of injuries or fatalities. As a result, employees of the sector are disillusioned and often collude with criminals to rob their employees and clients. In 2009, there were 3 instances of G4S (a private security firm) being robbed while transporting cash from one place to another. It is suspected in all three cases that there was collaboration with members of the private security company.²¹

2.5 The Need for Private Security in Kenya

The effective enforcement of law, the maintenance of public safety, and the guarantee of the protection of life and property are fundamental to economic growth and the creation of an enabling environment for private sector-led growth and development. Issues that have emerged as bottlenecks to the provision of quality policing service include, but not limited to: delayed response to the scene of crime; very low rate of prevention and detection of crime; poor management of scenes of crime; understaffed police service; lack of proper Human Resource Management (HRM) policy and systems; lack of autonomy; poor terms and conditions of service; lack of adequate resources; long and bureaucratic purchasing process in securing security equipment.²²

The absence of strong institutional mechanisms for holding the police accountable to the people and to the rule of law must receive particular emphasis. Under the previous law, formal mechanisms for holding the Kenyan police accountable did not extend beyond the office of the president. The result of this legal arrangement has been that, in practice, the police have been vulnerable to interference by powerful individuals outside of formal mechanisms of accountability and the regular chain of command, such as politicians and wealthy business owners. These powerful individuals have been able to use the police for

²¹Wairagu et al, National Taxpayers Association (NTA): Scoping Study; Public Security Services in Kenya (March, 2010)p.21

²² Ibid

their own political and personal agenda, often in direct contravention of the interests of the Kenyan people. Dependence "for their own career advancement and well being on politicians", has made the police acquiescent to politicians, bureaucrats and their friends even when orders have been in contravention of the law or clearly in the interests of some and unfair to others.²³

The establishment of fair, efficient, and transparent mechanisms, both inside and outside the police force, for investigating and punishing misconduct is necessary. The present reliance on powerful patrons of necessity leads to widespread impunity which the chief enemy of accountability, a state of affairs in which police officers can engage in misconduct, crime and violation of human rights and be confident that they will not be disciplined or held to account for their actions. Impunity exists in the absence of effective mechanisms for investigating and punishing police misconduct. It also exists when powerful individuals outside the chain of command can, through their patronage, shield favoured officers from investigation and discipline. The recruitment, training, equipping deployment and promotion of Kenya Police Reserve (KPR) have become ripe grounds for corruption. There is need therefore to streamline its operations if its service and image are to be restored.²⁴

The police are but one of the resources a community may utilize in solving its security problems. The changes in the redefinition of the role of the police are evident in the move towards problem-solving or prevention, rather than apprehension and prosecution. However, people have come to regard the government with mistrust due to factors such as widespread corruption and ineptitude within the ranks of police force, raising spates of criminal activities and the failure of state to deal with them.²⁵

²³ The Kenya Police Service Development Plan :Draft 2. (2003-2007)p.11

²⁴ Wairagu, et. al: Private Security in Kenya (security Research and Information Centre (SRIC), Nairobi, 2004)p.14

²⁵ Ibid. p.14

2.6 Police Reform in Kenya

Policing in Kenya is currently faced with many challenges which include lack of tools and equipments, lack of medical cover, frequent transfers, low pay and long working hours.²⁶ The police commissioner has stressed that it is difficult to give quality service to Kenyans without adequate equipments like vehicles, CCTV cameras for Highway patrol, and communication equipments. This has impacted negatively on police performance in term of low morale. Other factors contributing to low police morale include poor housing, poor cells, reporting office and interviewing rooms. The root cause of this is the underfunding of the police service.²⁷ Kenya is at the crossroads in the transition from the old colonial policing to modern policing.

The 2010 constitution has been hailed by the police as one that supports and complements the ongoing police reforms. The National Task Force on Police Reforms headed by Justice (rtd) Philip Ransley suggested revision of police training curriculum, freezing of recruitment pending reforms, vetting of senior officers to identify their credentials, transformation of the police into a police service headed by Inspector General, improved working conditions for police officers including providing higher allowances for medical insurance and housing to improve policing. On the second week of June the police began internal vetting of more than 2000 police officers as per the recommendations contained in the 2009 Ransley report on police reforms.²⁸ The police commissioner acknowledged that the reforms within the police force have been long overdue but these became a matter of urgency after the 2007 general elections. The police stand accused of killing hundreds of protesting youths.

²⁶ Police Commissioner Itere M. A Commentary on the state of policing in Kenya. Citizen TV. 12/6/2011 @ 1.30 p.m.

²⁷ Kiraithe F, police spokesman. Commentary on the state of policing in Kenya: Citizen TV, 12/6 2011, @1.30 p.m.

²⁸ Police Commissioner Itere M. Commentary on the state of policing in Kenya. Citizen TV. 12/6/2011 @1.30 p.m.

According to the police Commissioner the 2010/2011 has witnessed many police reforms, which started with the success of the 2010 constitutional referendum. The police used helicopters to maintain peace throughout the country. This enabled the police to be present in every voting centre and at the Bomas of Kenya where the tallying of the votes took place, to provide security. The police commissioner also reported that, no ugly incidences were observed during the promulgation of the new constitution.²⁹

In the current police reforms in terms of human development 8000 police officers have been trained. The curriculum at the Kenya Police College has undergone reforms to handle issues of human rights which are the major challenges facing the police service. To cultivate change of attitude and get confidence and trust of the public, there is the change of the quality and quantity of the police to change what is on the ground. But this is faced with the challenge of limited facilities for training. Currently, only 2000 police officers can be trained at once.³⁰ Another challenge is lack of facilities and logistic support on the ground, like helicopters that can quickly move the police officers to areas where their services are urgently needed.

The police commissioner reported that the police service has liaised with Kenyatta University to train police experts in forensic and criminology to enable police to be competent and friendly. He acknowledged that the transition from police force to police service will require an officer who is customer friendly with adequate facilities and also enough police officers. These changes should begin with good social systems for police officers as motivation, and heavy investment in police reforms to enable them deliver services to citizens. The police commissioner admits that the task of policing is challenging but police can handle it given the right equipments and right attitude. The police

²⁹ Police Commissioner Itere M. Commentary on the state of policing in Kenya. Citizen TV, 12/6/2011 @1.30 p.m.

³⁰ Ibid

commissioner urged the public to add their voices to support the police in their call for support to facilitate police officers to do their work to transform police service for better service delivery.³¹

2.7 Control and accountability of private security companies

The degree of control and accountability of PSCs depends on a clear legal framework and the effective oversight institutions. Control and accountability is weakened or rendered ineffective if it is not based on a clear and uniform regulatory framework. Malta has a legal framework governing the industry, but the specific regulation of control and accountability has been omitted from its laws.³² In other states, PSC regulation is a matter of devolved government leading to different pieces of legislation in different parts of the country, as is the case in Switzerland and Italy.³³ In some countries, for instance, Germany and Austria, the regulatory framework is based on general commercial laws instead of specific PSC laws. One might question the extent to which these commercial legal frameworks are fully applicable to the private security sector, which has its own dynamics and specific concerns related to maintaining law and order and upholding human rights. A last group consists of states which have adopted specific private security laws, such as France, the United Kingdom or the Netherlands.³⁴

In different EU states, a great variety of oversight institutions exercise oversight of PSC's. In some states, PSCs come under the control of (local) police (for example, in Greece, Denmark, Slovakia and Hungary); in other states, local civil authorities are responsible for controlling the sector (for example, Germany, Italy and Sweden); the ministry of the interior controls the PSC sector in Slovenia, Italy, Poland and the Netherlands; the ministry of justice

³¹ Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010)pp. 3 – 35, p.21.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

is responsible for oversight in Luxembourg; and, in Ireland and the U.K., a special security authority was established to oversee the PSC sector.³⁵ As mentioned previously, in the event that the PSC is a competitor of the police, a conflict of interest may arise when the police is tasked with the oversight of the PSC sector.³⁶

Self-regulation exists in different forms and may occur at the industry or agency level. It often takes the form of codes of conduct or codes of ethics, setting out minimum standards of behaviour for PSC personnel. Self-regulation aims to achieve much the same objective as state regulation does, and thus attempts to impose a certain level of control over specific activities. Despite this similarity with state forms of regulation, it is interesting to note that self-regulation is generally perceived as a lesser form of regulation, and lacks credibility in the eyes of the general public. This is most likely linked to the voluntary nature of self regulation, and thus to the perception that the industry or agency will not self regulate on issues that are not in their interest. Nevertheless, self-regulation remains an important mechanism for assuring accountability on the agency and industry level. Thus, the development of whistle blowing mechanisms or codes of conduct for instance, not only contributes to the professionalism of the sector, but to its democratic governance as well.³⁷

With the purpose of assessing the quality of existing self-regulation, a set of criteria that should cover the essential aspects of an instrument of self-regulation is presented. In particular, self-regulation should pass a completeness test and an enforcement test. The former aims at examining whether all aspects relating to the democratic governance of private security are covered, including respect for human rights and the rule of law. Thus, an instrument of self-regulation is only comprehensive if it covers minimum standards on selection and recruitment requirements, on training, identification, possession and use of

³⁵Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010)p.21

³⁶Ibid.

³⁷Ibid p.29.

firearms and search and seizure powers. One should also mention how adequate relations with the police should be governed, and what measures should be taken against corruption.³⁸

The second test is that of monitoring implementation and enforcement. Ideally, the instrument should contain specific provisions on how employees should be informed of the contents of the code, methods to monitor the implementation of the instrument, and specific information on what action can be taken if the terms are not respected. In particular, there should be clear procedures for reporting allegations, detailed measures for investigations, and specific sanctions in place to ensure that all employees have an interest in knowing and respecting the code. This is also in the interest of the owners of the PSCs, in order to avoid any potential liability issues.³⁹

An example of self-regulation at the industry-level is provided by the British Security Industry Association (BSIA), which has taken measures to encourage minimum standards in the industry. The BSIA develops standards which it then passes on to the British Standards Institution (BSI) for development as a British Standard. An example of this is the code of practice for the management and operation of CCTV. Moreover, the BSIA has taken the lead in establishing a code of ethics for recruitment organisations supplying security personnel. The code of ethics aims to eliminate bad practice in recruitment, and stipulates that pre-employment screening will be carried out and that annual awareness training on compliance with the Conduct regulations will be given to the employees.⁴⁰

However, even with the existence of such codes, it remains doubtful to what extent these codes are respected, and how effective implementation and monitoring actually takes place. The former BSIA code for instance remains voluntary, and even those who have adhered to it run at worst the risk of being fined or expelled from the BSIA if they breach it.

³⁸ Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010)p.29.

³⁹ Ibid.

⁴⁰ Ibid p.31.

However, it is important to note that in the case of the UK, the Security Industry Authority (SIA) is mandated to enforce the actual law on private security, and is able to take action in the form of verbal or written warnings or through the initiation of prosecutions.⁴¹

2.8 The need for Regulation

International regulation is necessary as PSCs, can become rather 'nomadic in order to evade national legislation which they regard as inappropriate or excessive.' Legislation is necessary to make PSCs and their individual members accountable for their actions, particularly since a major difference between PSCs and state public security providers is that the latter are directly accountable to parliament, government and the public, whilst PSCs only have to respond to shareholders and clients. Regulation is also essential in view of the potential harm that corruption could produce in the extremely sensitive field of security. Regulation could also help to better ensure that private security employees do not play a part in crime.⁴² In short, regulation can be interpreted as the usually formal mechanisms of control which are established in order to guide conduct and to ensure the universal application of the law. In general, greater regulation can lead to enhanced accountability.

It has been widely acknowledged by the private security industry itself that the field is in need of regulation. Improved regulation would help to distinguish between honest and disreputable private security companies, and eventually to remove the latter. Likewise, regulation could contribute to improving the professionalism of the sector and to boosting public confidence in the private security industry. This would explain why multiple efforts have been made by PSCs in self-regulation and why codes of conduct have been drawn up by some firms and organisations.⁴³

⁴¹ Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010)p.32

⁴² Ibid, p.31.

⁴³ Ibid, p.5.

There have been a number of problematic instances of abusive, corrupt and incompetent behaviour, and in some instances even outright public scandals, involving private security personnel during the past years, clearly demonstrating the pressing need for serious regulation.⁴⁴ In South Africa, the state recognized that this industry was increasingly performing duties previously within the ambit of the public police and consequently needed a greater degree of regulation and control.⁴⁵

2.9 Levels of Regulation

At the regional level, no harmonisation of legislation concerning the private security industry at the regional level has yet taken place. The Confederation of European Security Services (CoESS) promotes minimum requirements at the European level, and has achieved the signature of several joint opinions on aspects such as licensing and vocational training. A code of conduct for the private security sector has also been signed, with the objective of raising standards and guaranteeing a high level of professional ethics in this sector across the European Union. Nevertheless, at present national regulations differ from one country to another and reflect the different cultural environments.⁴⁶

It is, however, important to stress that the lack of standardised European legislation on private security companies does not necessarily denote a vacuum of relevant rules at the European level. Indeed, European case law provides several examples whereby the Commission of the European Communities has questioned the regulation of PSCs by individual countries on the basis of the principles of freedom of establishment, freedom to provide services and the free movement of persons. In 2003 it was argued in the European Court of Justice that Spanish legislation on private security did not comply with the principles

⁴⁴ Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010)pp.5-6.

⁴⁵ Ibid p.7

⁴⁶ Ibid

of freedom of establishment and the free movement of services as set out in Articles 43 and 49 of the treaty.⁴⁷ Therefore, in this ruling, the European Court of Justice has established its competence over matters related to the private security industry, as it is considered an economic sector of the EU and therefore falls under the regulation of the internal market.

In terms of the EU external policy, the EU acknowledges that private security companies constitute a part of a state's security system. Therefore, policies which target PSCs can be included in EU enlargement, integration and external assistance policies. Nevertheless, the EU's most recent communication on security sector reform does not elaborate on how PSCs can be fruitfully targeted.⁴⁸

2.10 Legal framework for PSCs in Kenya

The current legal framework governing the provision of private security has a number of problems. Firstly, because PSCs are registered as business enterprises or corporations, and are players in an open market, no law defines their relationship with the existing security apparatus, such as law enforcement agencies, and in particular the police.⁴⁹ Such definition is vital for efficiency and effectiveness of both.

Secondly, practically anybody can register a security company, set up a shop, advertise and start charging clients. The Act does not provide for any necessary relevant skill or expertise in security matters, nor does it vet the integrity of the managers. The current registration requirements do not protect individuals. Because of lack of accountability some companies may deceive clients. It is clearly necessary to professionalise the industry and discourage investors with a quick-profit motive.⁵⁰

⁴⁷ Caprini, M. et al. Regulating Private Security in Europe: Status and Prospects. "Geneva Centre for the Democratic Control of Armed Forces" (DCAF) Policy Paper – No.20, (2010), p.7.

⁴⁸ Ibid p.8.

⁴⁹ Mketu A, et al Kenya: Private Security Companies in Kenya and Dilemmas for security. "Journal of Contemporary African Studies" (Dec. 2008)pp. 391 – 416, p.402.

⁵⁰ Ibid, p.402.

There are no standards to define and control the quality of any security product or service. A security guard is simply a person, sometimes provided with a uniform and given a *rungu* (stick), a spear or bow and arrows, and taught for a few days how to march and salute! The most important issue here is the lack of rigorous background checks of criminal record or military service record. People's lives and property are at risk if ex-criminals are not filtered out. Such a checking process occurs in the police. Similarly a collection of wires, buttons and bells can be assembled by anyone and marketed as electronic alarm systems. No law exists to govern their design and installation, and therefore their reliability is not guaranteed. One can claim to have mobile backup services without having any because there is nobody to regulate this in terms of compliance.⁵¹

In conclusion, it is clear that, provided there is sufficient and enforceable regulation, PSCs can contribute to improving the security situation in Kenya and thereby also further economic development. This must not, however, come at the price of further damaging social cohesion whereby security becomes a commodity that only the wealthy can afford and whereby the disenfranchised remain the disenfranchised. Without undivided access to security for all members of society development remains close to unattainable. The private security market alone cannot meet these challenges, even if the necessary funds were made available. The government must not abrogate its obligations to its citizens, in particular when it comes to one of the state's core functions-that of providing security. Most importantly, the government has to develop and enforce effective regulation for its national private security sector in order for the industry to contribute meaningfully to the creation of a secure and stable environment.⁵²

⁵¹ Mkutu A. et al Kenya: Private Security Companies in Kenya and Dilemmas for security. "Journal of Contemporary African Studies" (Dec. 2008)pp. 391 – 416, p.402.

⁵² Wairagu. et.al: Private Security in Kenya. "Security Research and Information Centre" (SRIC), Nairobi, (2004),p.89

2.11 Regulating Private Security in Kenya:

The potential hazards of an unregulated sector have recently been recognized by the government, and a Bill has been tabled in parliament for legislation. While this move is in principle widely supported by security providers, it has also yielded significant disagreements over the form, impact, and likely effectiveness of regulation. These disagreements reflect the fundamental divergences arising from the current structure of the security market, as well as the politics of protection in Kenya today.

2.12 The Kenya Private Security Industry Regulation Bill, 2010

This is a Bill for An Act of Parliament to provide for the regulation of the private security industry; to establish and provide for the functions of a regulatory authority; to prescribe conditions for the operation of private security firms; and for connected purposes. The Bill seeks to establish an Authority and the object for which the Authority is established is to regulate the private security industry and to exercise effective control over the provision of private security services in the interest of the public.⁵³

The functions of the Authority shall be to: ensure that security services providers act in the public and national interest in rendering their services; promote professionalism, transparency, accountability, and stability, equity and accessibility in the private security industry; determine, prescribe and enforce minimum standards of occupational conduct in respect of the security services industry; encourage and promote efficiency and responsibility in the rendering of security services; promote, maintain and protect the status and interests of the occupation of security services provider; ensure that the process of registration of security services providers is transparent, fair, objective and is concluded without delay; promote high standards in the training of security services providers and prospective security services providers; encourage equal opportunity employment practices in the private security industry;

⁵³ The Kenya Private Industry Regulation Bill, 2010

promote the protection and enforcement of the rights of private security officers and other employees in the private security

industry; ensure that compliance with existing legislation by security service providers is promoted and controlled through a process of active monitoring and investigation of the affairs of security services providers; protect the interests of the users of security services. promote the development of security services which are responsive to the needs of the users of such services and of the community.⁵⁴

The Authority shall be governed by a Board. In the performance of its functions under this Act, the Board shall have power to: suspend or withdraw the registration of a security services provider under this Act; take such steps as may be necessary to develop and maintain standards and regulate practices in connection with the occupation of security services providers, and persons pursuing or intending to pursue such occupation; gather information relevant to the occupation of security services providers in connection with persons who are registered or seeking registration as such; take steps to protect and assist security guards and other employees against or with regard to acts, practices and consequences of exploitation or abuse; furnish information required by any department or any organ of the government for the purposes of its official functions; receive, expend and generally administer funds subject to the provisions of this Act; open accounts with any banking or other financial institution approved by the Treasury; invest funds of the Authority with financial institutions registered in terms of any law with the approval of the Treasury; determine, charge and collect fees as provided for in this Act in respect of any service rendered by the Authority; accept donations, except donations from persons regulated by the Authority, with the approval of the Cabinet Secretary; manage and safeguard the assets of the Authority; determine minimum internal control systems for security firms, including but

⁵⁴ The Kenya Private Industry Regulation Bill, 2010

not limited to accounting and reporting procedures and any other procedures or systems; become a member of an association or organization which seeks to promote any matter in which the Authority has an interest; establish relations with or enter into cooperation agreements with bodies or offices which regulate the private security industry in other countries, or bodies representing such regulators; conduct or cause to be conducted, hearings investigations and inquiries with regard to any matter falling within the scope of its functions; enter into agreements with or obtain the assistance of any department or organ of the government to conduct or assist it in conducting any investigation or performing any other function in terms of this Act; cooperate with any person or body in the performance of an act which the Authority is by law permitted to perform; and generally perform any act which contributes to the attainment of its objects.⁵⁵

The extent to which the proposed Private Security Regulatory Authority will be able to monitor and review PSCs remains to be seen, but the government's inconsistency in regards to the minimum wage does not give cause for optimism. More importantly, virtually all successful regulatory structures for the private security sector rely upon a high degree of industry involvement. Yet in the eyes of some industry participants, effective moves to regulate the Kenyan sector are likely to exacerbate divisions within it, whereas policies that avoid acrimony are unlikely to be effective. It will thus be very difficult for the government to institute an effective regulatory regime if deep and unresolved issues persist within the industry.⁵⁶

⁵⁵ The Kenya Private Industry Regulation Bill , 2010.

⁵⁶ Abrahamsen R. and M.Williams . The Globalization of Private Security. Country Report: Kenya (Jan. 2005),p.16.

Chapter Three

Areas of Collaboration Between Public And Private Security

3.1 Introduction

Chapter two examined the regulation of private security in Kenya and in other countries. Specific things examined include the character of crime in Kenya, the need for regulation of private security, levels of regulation and frame work for regulation. The literature examined reviewed a security gap which the private security tries to feel. Chapter three entails the case study.

Security is a very wide concept and although some parts sometimes arguably are better covered by one certain actor; quite often a co-operation of private and public counterparts appears preferable. The ultimate goal for public provision of security is to make society run smoothly by maximizing order. A lot of resources are needed and spent in order to successfully provide adequate responses to public police functions. Despite their similar interests in protecting the people the two fields have rarely collaborated.¹ In fact, through the practice of community policing, law enforcement agencies have collaborated extensively with practically every group but private security. The need for complex coordination, extra staffing, and special resources coupled with the significant demands of crime prevention and response, absolutely requires boosting the level of partnership between public policing and private security.

Police officers differ considerably from private security personnel in the work they perform, the basic job requirements and training. Both police and private security play a role in society; however, the line between the two security professions is becoming less clearly defined. Police officers who walk the beat in front of commercial properties may now meet

¹ Swol, K. Private Security and Public Policing in Canada. Catalogue no. 85-002-X1E vol.18, no. 13 (Nov. 1998)p.2.

up with private security guards who have been hired by the shop keepers to patrol their storefronts as a deterrent to theft and breaks. In general, this type of private security does not require police presence nor does there exist a potential for danger. Some police forces have formed partnerships with private security in areas such as: securing storage of property and evidence, monitoring of alarm centres, guarding of prisoners while in lock-up or in transit, and video and audio taping of suspects being interviewed.² This chapter entails general police and private security functions, areas, forms and levels of collaboration.

3.2 The Role of Public Security

This section focuses on police duties and responsibilities', considering what is core, and what activities merit the use of police powers. Considerations such as these are essential in determining what has to be carried out by the police and what can be carried out by others. Those that fall into the latter category might be considered by the private security sector as areas that it could make a contribution towards.

There are Police Service Acts in each of the countries that stipulate the duties of a police officer. Generally, duties of the police include: preserving the peace; preventing crimes and other offences; assisting victims of crime; apprehending criminals; laying charges, prosecuting and participating in prosecutions; executing warrants and performing the lawful duties that the chief of police assigns. Completing the prescribed training, police officers are responsible for serving and protecting the public. Their jurisdiction includes areas that are in the public domain. Police officers have powers of search, arrest and detention and are held accountable for their actions.³

Other roles of the police is to provide policing and security services for the State with the objective of: preserving peace and public order, protecting life and property.

² Swol, K. Private Security and Public Policing in Canada. Catalogue no. 85-002-XIE vol.18, no. 13 (op. cit.)

p.2
Ibid

vindicating the human rights of each individual, protecting the security of the State, preventing crime, bringing criminals to justice, including detecting and investigating crime, and regulating and controlling road traffic and improving road safety.⁴

In the Netherlands, order and security in the public domain is the responsibility and one of the core tasks of government, a fact that is unlikely to change. Order and security in the private domain is the responsibility of the private sector. However, it must always remain possible to exercise democratic control; the public domain must remain accessible and the responsibilities for order and security matters must be fairly divided.⁵

3.3 The role of private security

In terms of private security operation, the principal task is to prevent loss and to minimise risk to people and property in private places and they have no functions in the preservation of law and order in the public sector.⁶ One of the most important features of the modern development of private security, namely, that the maintenance of order in public places is becoming increasingly part of their routine day-to-day activity. Under these circumstances, the traditional view that the maintenance of public order is, either in practice or in theory, the sole responsibility of the police is clearly no longer tenable.⁷

Private security is not in business to serve the general public good. It is in business to serve the needs of its paying clients. It clearly does make a contribution to, for example, crime prevention in some respects, although how much of this is offset by a displacement

⁴ Swol, K. Private Security and Public Policing in Canada. Catalogue no. 85-002-X1E vol.18, no. 13 (op. cit.) p.2

⁵ Seminar Public-Private Partnership, The Hague, The Netherlands (16 and 17 December 2002) p.8.

⁶ Sorenson P, J. Employment and training in manned security services, in P. Wiles and F. McClintock (eds.), "The Security Industry in the United Kingdom".(Cambridge: Institute of Criminology, University of Cambridge, 1972) pp.44-45.

⁷ Shearing et al. Police Perceptions of Private Security, "Canadian Police College Journal", Vol. 9, No. 2 (1985a), p.134.

effect, which means those less able to pay for additional security become more heavily victimised.⁸

The argument about the displacement effect may be true but this can be argued with any crime prevention initiative and agencies must be aware of it. The point is that private security makes an important contribution to crime prevention by undertaking roles not undertaken by governments. In fact, governments 'often produce private goods, either "purely private" or "quasi-private" and then distribute them "for free" in the sense that there is not direct price used to assist in the allocation of resources. However, this is changing with governments wishing to privatise many activities which are not seen as core to the business of government.⁹

Whilst 'crime-related' services provided by the public sector were found to be based on constitutional responsibilities and perhaps should remain, it was suggested by the researchers that public sector officials would probably welcome an expanded relationship with the private sector that would release police for basic crime fighting. Functions frequently identified as not necessarily requiring police and which could be privatised included court security, prisoner transport, parking enforcement, public building security, public parks patrols, special event security and public housing patrols.¹⁰

Moreover, some of the functions, such as securing premises, patrols, responding to alarm calls or crime reports, and crowd management, are very similar for both forms of policing. Private policing involves more than just patrol and guard duties. Many of the allied activities to these two functions involve protection of assets or people-establishing perimeter security and other protective barriers and security measures, and are essentially also designed to prevent insiders and outsiders from committing crimes, in other words, pure and simple

⁸ South, N., Policing for Profit: "The Private Security Sector", (Sage Publications, London, 1988) p.152.

⁹ Edmonds, D. et al Costing and Pricing of Police Services, "International Journal of Public Sector Management", Vol. 7, No. 5, MCB University Press (1994) p.5.

¹⁰ Golsby, M. Police and Private Security Working Together in a Cooperative Approach to Crime Prevention and Public Safety, (Hobart, 1998)p.30.

crime prevention. Furthermore, many private security companies have developed investigative capacities and collect information and evidence, interview suspects and develop a criminal case (which is usually handed over to the authorities for prosecution) in the process of investigating 'incidents'.¹¹

In a nutshell, the functions of private security include but not limited to; Prevention or detection of intrusion, unauthorized entry or activity, vandalism or trespassing on private property. This group of activities includes patrolling, guarding of private property; Prevention or detection of theft, loss, embezzlement, misappropriation or concealment of merchandise, money, bonds, stocks, notes, valuable documents or papers, for example, protection of cash in transit; Protection of individuals from bodily harm (bodyguards); Maintaining public order at events (concerts, football matches); Reporting and apprehension of violators; Transporting prisoners and guarding prisons; and, Reporting on and responding to incidents and calls, including the conception, installation and maintenance of alarm systems and alarm centres.

3.4 The Role of the private security in Kenya

In the Act of Parliament (Private Security Industry Regulation Bill, 2010), a person provides private security services under this Act if , the individual or firm, provides any of the following services: provision of private security guard services; installation of burglar alarms and other protective equipment; private investigations and consultancy; car tracking or surveillance; close-circuit television; provision of guard dog services; security for cash in transit; access control installation; or any other service authorized by the Board through a notice in the Gazette.¹²

¹¹ Minnaar A. Oversight and Monitoring of Non-State/Private Policing: the Private Security Practitioners in South Africa. (Pretoria; 2006) p.132

¹² The Kenya Private Industry Regulation Bill, 2010

In the same statute a private security provider shall not: allow the use of uniforms similar to any of the uniforms worn by any disciplined service in Kenya; brand its vehicles in similar colours with any disciplined service in Kenya; or install communication tools or systems capable of interfering with a communication system used by any disciplined service in Kenya.¹³

3.5 Relations between the Law Enforcement and Private Security

Although they possess certain similarities and are in many ways complementary, law enforcement and private security differ in some key respects. Training of law enforcement officers is substantially more rigorous than that of security officers. Standards and certification are also more demanding in law enforcement than in private security. Of course, law enforcement has legal powers far exceeding those of private security. On the other hand, private security has the resources to develop specializations beyond the capacity of most law enforcement agencies, such as the protection of computer networks, chemical plants, financial institutions, healthcare institutions, and retail establishments. In several respects, the line between public law enforcement and private security is blurred. Many retired law enforcement officials at the state, migrate to positions in private security.¹⁴

In addition, many law enforcement officers work as private security officers in their off-hours. Relations between law enforcement and private security vary considerably. Although the groups have much to offer each other, they are not always confident in each other. For example: Some police lament the paucity of pre-employment screening, training, standards, certification, and regulation of private security officers; Some police feel private security officers receive insufficient training and view them as individuals who sought a career in law enforcement but were unable to obtain a position.

¹³ The Kenya Private Industry Regulation Bill, 2010

¹⁴ Moor, G. Seminar on Public-Private Partnership The Hague. The Netherlands (16 and 17 December 2002), p6

Some police see private security as a threat to their domain and generally have little understanding of the broad range of private security functions, capabilities, expertise, and resources and therefore fail to appreciate the role of private security¹⁵. Some private security practitioners on the other hand view police as elitists and feel law enforcement professionals do not care about private security until they are considering a job in that field.¹⁶ It is therefore clear that with policy and legal framework in place, collaboration between the public and the private security providers would provide effective security. Security professionals believe that police do not respect private security, law enforcement officers are less concerned with crime prevention and more focused on arrests, and that police officers seek information from private security but do not share information.¹⁷

3.6 Obstacles Standing in the way of Collaboration between Public Security providers

From the literature above, it is clear that certain obstacles stand in the way of collaboration between public and private security providers. Some of these are discussed below. Information sharing is difficult. Private security corporations do not feel they receive timely information from police, and they also fear that information they give to the police may end up in the newspaper. Police fear that the private security sector may not treat law enforcement information discreetly. Other issues include respect, trust, training differentials, and competition. A further obstacle is that the two sides may not realize the extent of their common goals.¹⁸

Law enforcement executives know too little about private security. For example, when they speak about first responders; they refer to themselves, firefighters, and emergency medical technicians. There is no mention private security. There is a lack of awareness of

¹⁵ Policy Paper: Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder (U.S 2004)p.7.

¹⁶ Ibid, p.7.

¹⁷ Ibid.

¹⁸ Ibid p.14.

what private security is and what it does. Partly this is due to an absence of cohesion in security. For example, security is not always organized as a functional group within an organization. Security organizations tend not to train in mutual aid and usually lack communications interoperability.¹⁹

The lack of direct leadership from any of the official authorities on how private security should be engaged is a lament from police and some call for greater direction from central government. Moreover, a number of police feel that the best way to encourage the use of private security in policing was to make money available for that purpose.²⁰

The lack of accountability of the private security industry is a barrier to closer partnership working. There is a general lack of awareness of the current regulation regime for the private security sector. And where there is a good understanding of the existing regime there is often skepticism of it, which leads to reservations about working with the industry. However, there is a belief that some parts of the security industry had improved significantly, particularly door supervisors. Many from the police call for a governance structure that ensures that staff are properly vetted and trained. Some police feel that if they are expected to have faith in the regulation regime then they should have a role in it.²¹

Opposing public and private sector principles also presents a barrier to closer working. Many police representatives have concerns that further involvement of the private sector in front-line policing would result in a two-tier police service, one for those who can pay and one for the rest. Others have concerns that outsourcing police tasks to the private security industry would result in inconsistent service delivery or that the industry might withdraw their services if not profitable leaving a gap in provision, or at the other extreme,

¹⁹ Policy Paper: Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder op. cit.,p.13

²⁰ Gill M. et al The Private Security, the Corporate Sector and the Police: "Opportunities and Barriers to Partnership Working" (Perpetuity Research and Consultancy International Ltd UK, 2010),p112

²¹ Ibid

overcharge in the absence of competitors. Furthermore because private security is accountable to those who pay many questioned whether it could be trusted to be impartial.²²

There is a strong view among the police that certain tasks should not be delivered by private security, specifically policing public space where there is the potential for conflict. There are a number of reasons for this, and many related to those already mentioned; the lack of accountability of the private sector to the public, its profit driven nature, the potential for inequity of service, and the lack of credibility of private security that could rub off on the police. However attempting to determine which police tasks are core, whether they need to be delivered by sworn police officers or other police staff and how police work can best be organised remains a challenge. Although some progress has been made in this area, there is a need for greater clarity.²³

Overall, the nature of interactions between police officers and security professionals are based on daily activities which are complicated within the context of hierarchical relationships shaped by supervisory authority and legal regulations. For example, South Korean police officers are required to check all security companies twice a year and they are vested with the power to administer sanctions in cases of violations. These contexts can create tension and animosity and become barriers to cooperative and cordial relationships.²⁴ (One of the issues in partnership policing is the form such partnerships should take, and the type of relationship that is built with each partner, for example equal sharing partnerships, or one partner dominant.

One of the other main stumbling blocks to establishing partnerships are police fears of a loss of autonomy and the implied association of private security personnel with private.

²² Gill M. et al. The Private Security, the Corporate Sector and the Police: "Opportunities and Barriers to Partnership Working" *op. cit.* p.113.

²³ *Ibid.* p114.

²⁴ Nalla K. and Hwang. Policing: "An International Journal of Police Strategies & Management" Vol. 29 No. 3,(2006) pp. 482 - 497, p.488.

Allied to this approach was the break with the narrow interpretation that crime prevention was the sole preserve and responsibility of the (public/state) police.²⁵

3.7 Changing attitudes toward the complementary roles of public and private police

Over the years, many police have held a less than favorable impression of the abilities and functions of private security personnel; some police officers hold private security agents in contempt. Likewise, private police often hold negative views of the public police as people who always come after the fact, have little accountability for crime, and who are often demeaning and highly critical of private security efforts.²⁶

Fortunately, stereotypes have begun to change, due in large measure to public police adopting new service-oriented philosophies, coupled with a greater awareness that the public police cannot stand alone in the crime-control arena. The new philosophies of policing have as their core the provision of efficient and effective service to an actively engaged community. The community's interests and capacities or self-protection are taken into account in designing and implementing crime prevention activities.²⁷

Several factors have contributed to a greater understanding by the public police of the proper role of private security: a perception of increasing professionalism within private security organizations; a greater awareness and appreciation of the problems confronted in providing security services; and a recognition that "cost sharing" may be the only way to increase security services within the business community.²⁸

The fact that personnel employed in private security, especially in recent years, far outnumber law enforcement officers and that they engage in pursuits similar to those of law enforcement the police could have willing partners in cooperative efforts to achieve common

²⁵ Minnaar A. Private-Public Partnerships: Private Security, "Crime Prevention and policing in South Africa, IPE:S Working Paper No. 9" (May,2007)p.18.

²⁶ Green, J et. al. Merging public and private security for Collective Benefit, "American Journal of Police", Vol.14, No.2.(1995)pp. 3 – 20, p.7.

²⁷ Ibid.

²⁸ Ibid, p.8

goals. But to realise this objective there are a number of initiatives that need to be more thoroughly implemented. Without a doubt most professional security officers see themselves in essence as “crime fighters”. In order to better utilise them in crime prevention there is a need to establish a more formal National Forum where representatives from public police and private security can discuss and formulate solutions to their perceived problems in co-operating better.²⁹ More importantly this Forum can provide the opportunity for the setting up of a national “Think Tank” to research, test and recommend policy which can lead to the development of a formal framework where partnership policing can operate in practical terms to the benefit of the community at large. The Forum can also assist the government in formulating the requisite legislation, in order not only to formalise the various ad hoc and informal co-operation initiatives that are occurring in some areas, but also to establish appropriate structures for partnership policing to occur at a sustainable and effective level.³⁰

There are a number of barriers to closer partnership working between the police and the private security sector. However, it is clear that there are also significant drivers to improve partnership working; the increasing demands placed on the police, from the general public, counter terrorism and serious and organised crime, within a context of cut-backs in public spending call for innovation in service delivery in order to increase efficiencies. This context presents opportunities for closer working with the private and security sector. However, attempting to determine which police tasks are core, whether they need to be delivered by sworn police officers or other police staff, and how police work can best be organised remains a challenge. Although some progress has been made in this area, there is a need for greater clarity.³¹

²⁹Green, J et. al. Merging public and private security for Collective Benefit. “American Journal of Police”, Vol.14, No.2 opp. cit. p.9

³⁰ Ibid

³¹ Ibid p.10

3.8 Preconditions for Public-Private security Partnership

Public-Private security Partnership is a cooperation agreement between autonomous private and public parties working together to achieve joint security objectives, on the basis of a clear division of responsibilities, tasks and authority, and with no hierarchy amongst the parties. The most important preconditions for the success of such Partnership are mutual trust and recognition of the possibilities for the future. This form of partnership is a tool for a coordinated approach to a clearly defined goal that could not be achieved without collaboration, and which takes into account the need for prevention and repression.³²

Confidence is an important precondition for success that will encourage parties to cooperate. National support and coordination is just as important, as this will enable the national coordinating bodies of private organisations and central Government to work together on any national adjustments to existing working methods or regulatory measures that may prove necessary. Various countries working with Public-Private Partnership (PPP) in security have a formal national partnership in which the key figures from the private and the public sectors work together.³³

3.9 Levels and Areas of collaboration

Currently, public-private cooperation takes many forms and occurs at many levels, ranging from national level, mainly information-sharing programs, to local-level operational partnerships. Cooperation may consist of: informal, ad hoc collaboration; formal partnerships to maintain good relations, share information, or solve specific problems; contractual arrangements in which government agencies contract with private security for services traditionally performed by law enforcement agencies; and employment of off-duty law enforcement officers by private security.

³² Houwer, M. Seminar Public-Private Partnership. "The Hague, The Netherlands"(16 and 17 December 2002)p.6

³³ Ibid

It is generally accepted that crime control should be carried out at the local level and that networks are essential. These networks can be set up in a number of different ways: they can be organised by the people concerned (as is the case in Sweden) or they can be initiated from a central point (as is the case in the Netherlands). There are advantages and disadvantages to both approaches. The most important preconditions for success are that the specific local needs have been thoroughly examined, that long-term investments are made and that the Government is clear about its priorities and choices.³⁴

In France specific levels of public-private security must be satisfied. The interest is to establish good interactions between these levels. The national level, where conception of new orientations and actions happen and where laws are being drawn to enforce the policy. As the law often is not enough in the context of an effective national partnership, the Ministry prepares decrees, circulars, draft treaties or conventions, to enable the law to function. The national level of partnership is essentially developed to facilitate the operational realisation at the local level.³⁵

Partnership at the intermediate level is formed by the department, the basic structure of administration for the state. At the level of the department organised private partners can be represented. At the level of the local authorities, the President of an elected local political leader controls the partnership. The fundamental operational level is formed by the town, the agglomeration or the community of towns. The region obtains more and more influence among the institutional partners as it is involved in local politics for prevention and development. Local partnerships are organised in the local councils for security and prevention of delinquency³⁶

³⁴ Houwer, M. Seminar Public-Private Partnership. "The Hague, The Netherlands" opp. cit, p.6

³⁵ Ibid p.16

³⁶ Bregeon. Seminar Public-Private Partnership. "The Hague, The Netherlands" (16 and 17 December 2002) p.16

Law enforcement–private security partnerships may be encouraged or mandated, led by private security, law enforcement, or both; strategic or tactical; nonprofit organizations, local, regional, statewide, or organized in some other geographic fashion; well or poorly supplied with resources.³⁷

In PPPs shared policing activities typically involve the following: Responding jointly to crimes in progress Investigating crimes; Sharing of crime intelligence; Joint crime intelligence gathering (for example by means of joint surveillance teams or CCTV operations); Sharing of expert knowledge (for example on the latest technology (private sector) or training methods (police); Accessing of and supplying official crime information; Joint planning and policing of special events; Assistance with training (for example in computer forensics by the private sector companies or in collecting and correct control of evidence at a crime scene by the police); and Crime prevention advice (sharing of risk analysis and audit information). In all these partnership activities there is an obvious need the development of clear guidelines and accountability structures for each activity, and especially for strictly ‘policing’ activities.³⁸ One of the issues in partnership policing is the form such partnerships should take, and the type of relationship that is built with each partner, for example equal sharing partnerships, or one partner dominant.

Without doubt most professional private security officers see themselves in essence as fighters. In order to better utilise them in crime prevention there is a need to establish a more formal national forum where representatives from public police and private security can discuss and formulate solutions to their perceived problems in improving co-operation. More importantly, this forum can provide the opportunity for setting up a national think tank to research, test and recommend policy that can lead to the development of a formal framework

³⁷ Bregeon. Seminar Public-Private Partnership. “The Hague, The Netherlands” (16 and 17 December 2002) p.13

³⁸ Minnaar A. Oversight and Monitoring of Non-State/Private Policing: “the Private Security Practitioners in South Africa”. (Pretoria; 2006) p.142

within which partnership policing can operate to the benefit of the community at large. The forum can also assist government in formulating the requisite legislation, in order not only to formalise the varied ad hoc and informal co-operation that is occurring in some areas but also to establish appropriate structures for partnership policing to occur on a sustainable and effective level.³⁹

3.10 Framework for collaboration

Generally, over the last few years, there has been an absence of any official co-operative and regulatory framework between the Police and private security companies. Most private policing has occurred as or ends up being ad hoc or small local initiatives. Furthermore, issues around control have arisen consistently. In other words, no one has ultimate authority over actions, and there are no clear reporting lines and accountabilities. Finally, there has been a lack of co-ordination of activities between public and private policing entities.⁴⁰

Overall, in dealing with the entry of private security personnel into the public policing domain, a number of developed countries have relied on the establishment of effective public-private partnerships (PPPs) in security or 'partnership policing'. PPPs are often underpinned by the formulation of so-called information sharing protocols. In other words, the exchange of crime information in effective partnerships is governed by predetermined protocols that identify where disclosure is strictly justified. These protocols can improve data exchange between the parties and enhance trust and confidence. They also lay down the 'rules' for the co-ordination of information collection activities and can lead to

³⁹ Minnaar A. *Oversight and Monitoring of Non-State/Private Policing: "the Private Security Practitioners in South Africa"* op. cit, 145.

⁴⁰ Ibid. 139.

the establishment of formal databases, that is, an information node where all information can be collected, collated and analysed.⁴¹

In addition, PPP operations, activities and deliverables need to be underscored and supported by service level agreements. These are specific service contracts that outline exact functions, responsibilities, limitations on authority, reporting lines, pooling and sharing of crime information. PPP functions are often made more successful by instituting regular partnership meetings and structured briefings, since these can lead to a better understanding of the limitations and constraints on the actions of the partner organisations.⁴²

3.11 Administration of Collaboration

The Government will have to supervise, manage and facilitate the collaboration process, and will have to guarantee that the joint objectives are in the interests of the public, particularly in terms of order and security. The preventive measures taken by companies will be of little use if the perpetrators are not subsequently apprehended and prosecuted. Without strict enforcement, these preventive measures will have no effect. Prevention, supervision, control, investigation and prosecution form a chain in which strong mutual dependence between the Government and the private sector is implicit.⁴³

However stated that, public-private partnership is an indispensable instrument in dealing with crime in, and against businesses and institutions. She expressed the hope that the participants would reach their own conclusions on what public-private partnership could mean to their individual countries.⁴⁴

Takala defined public-private security partnership (PPP) as “a way of enhancing performance with a view to realising a common goal by taking joint responsibility and

⁴¹ Minnaar A. Oversight and Monitoring of Non-State/Private Policing: “the Private Security Practitioners in South Africa”. op. cit. p.141

⁴² Ibid p.141-142

⁴³ Houwer, M. Seminar- Public-Private Partnership. “The Hague, The Netherlands”, (op. cit. p.8

⁴⁴ Ibid

pooling the resources of different agents, whether they are public or private, collective or individual: and acting without them having to lose their separate professional identities. without unacceptable or illegal blurring of powers and interests and without loss of accountability".⁴⁵ Takala also mentioned the special position of the security industry, in which there is a conflict between profit and public interest. He stressed that in the local crime prevention the private sector should have a suitable organisation to work as a partner.⁴⁶

In city centres in Netherlands, municipal authorities are responsible for security policy. One of the duties of the police is to apprehend people who break the law and to provide police supervision. The way in which this supervision is organised has become one of the agreements made between the participating parties. The main criterion is that the police are easily accessible and approachable. 'seeing and being seen' is an important police task. Criminal offences or criminal behaviour should always be reported to the police.⁴⁷ Usually only non-core policing functions are outsourced. However, these support services are monitored by the local outsourcing police agency and have not required the extension of policing powers to outsourced personnel.⁴⁸

3.12 Benefits of collaboration

Joint benefits include: creative problem solving, increased training opportunities, information, data, and intelligence sharing, access to the community through private sector communications technology, and reduced recovery time following disasters.⁴⁹ It is in the interest of both parties to work together. For example, law enforcement agencies can prepare private security to assist in emergencies; coordinate efforts to safeguard the nation's critical infrastructure, the vast majority of which is owned by the private sector or protected by

⁴⁵ Takala, H. in the Seminar Public-Private Partnership. "The Hague, the Netherlands", op. cit., p. 12.

⁴⁶ Ibid.

⁴⁷ Koert, C. in the Seminar: Public-Private Partnership. "The Hague, The Netherlands", (16 and 17 December 2002) p.21.

⁴⁸ Minnaar A. Oversight and Monitoring of Non-State/Private Policing: "The Private Security Practitioners in South Africa". op. cit. p.141.

⁴⁹ Takala, H. in the Seminar Public-Private Partnership. "The Hague, the Netherlands", op. cit., p.15.

private security; obtain free training and services; gain additional personnel resources and expertise; benefit from private sector knowledge specialization and advanced technology; gather better knowledge of incidents; obtain intelligence; and reduce the number of calls for service.⁵⁰

Private security also has much to gain from this cooperation. This segment can coordinate its plans with the public sector in advance regarding evacuation, transportation, food, and other emergency issues; gain information from law enforcement regarding threats and crime trends; develop relationships so that practitioners know whom to contact when they need help or want to report information; build law enforcement's understanding of corporate needs (such as confidentiality); and boost law enforcement's respect for the security field.⁵¹

In conclusion, the underlying principle in establishing policing partnerships between the private security industry and the police should not be whether the former replaces policing functions but rather where it can supplement and be supportive of overall policing actions. In addition, there can be no talk of the provision of security outside the formal structures of the state. It is certainly not a question of privatising crime control but co-operating in the fight against crime and co-ordinating joint efforts in this regard. The bottom line is that the police afford or be seen to abdicate policing responsibilities and line functions. Moreover, one must bear in mind that while the security industry has a vast amount of expertise and manpower, it will make them available only if there is a counter benefit for the industry itself and if such co-operative actions are covered/ protected by the law.⁵²

⁵⁰ Policy Paper: Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder op. cit. p.2.

⁵¹ Ibid

⁵² Minnaar A. Oversight and Monitoring of Non-State/Private Policing: "The Private Security Practitioners in South Africa". op. cit. pp.144-145.

Chapter Four

Areas of Collaboration in Kenya

4.1 Introduction

Chapter three explored the collaboration between public and private security. Specific things addressed in the chapter includes the roles of public and private security, how they relate to each other, obstacles standing in the way of collaboration between just like that, changing attitude towards collaboration, levels and areas of collaboration and the framework for collaboration. This chapter entails identifying areas of collaboration in Kenya.

The key challenge facing the Kenyan private security sector is the development of a regulatory framework for licensing and monitoring, in order to ensure higher standards and quality of service. It is also crucial that steps are taken to improve the safety of security guards. There is a clear concern across the private security company (PSC) sector that its unarmed status is becoming increasingly inadequate in a setting of rising crime and violence. A few companies appear to circumvent the problem by arming a small proportion of their guards through individual firearms licenses, a practice that is not illegal but also not officially recognised.¹ Some industry representatives advocate such a selective arming as a future model, where a small, highly-trained component of some PSCs are allowed to operate a restricted armed-response capability, but recognise that this would require effective regulation and oversight. The majority of PSCs, however, show very little enthusiasm for arming guards, with many stressing that arming the sector would be extremely damaging. Instead they advocate a solution that involves closer cooperation with the police.²

¹ Abrahamsen R. and M. Williams. The Globalization of Private Security. "Country Report: Kenya", (Jan. 2005), p.16.

² Ibid.

In Kenya, security privatisation is deeply politicised due to the high degree of insecurity, inequality, and social fragmentation. Despite Kenya's very high level of crime and insecurity, there is remarkably little co-operation and co-ordination of security initiatives. In part this is due to a general lack of state capacity (and perhaps also willingness), and security networks are characterised by competition and mutual suspicion, with each set of actors drawing upon different forms of capital to enhance their position. This chapter examines areas of collaboration in the context of Kenya from the point of view of scholars and the revelations from the field data, and gives a conclusion that examines whether the study is in line with the research problem, the objectives, the theoretical framework, and the hypotheses of the study.

4.2 The need for collaboration

Robberies and thefts are the main threats which influence increased demand for the services of private security companies. In this context, it is precisely this increase in serious criminal offences that should serve as a common motivation for the private and public security sectors to co-operate to increase levels of public safety.³ However, as the example of private security officers operating in private buildings, this co-operation has so far not been based on best practices. In this instance, the public and private security sector act as rivals, with apparently only negative results.

There is a need for the community to reduce crime. Following from this, there is the motivation for police to become involved with the private security industry. It would be similar to the police forming partnerships with neighbourhood watch groups. Partnership arrangements with the private security industry would demonstrate a commonality of purpose

³ Interview with Private Security guards., (Nairobi August, 2011).

to reduce crime by organizing groups to liaise with one another and provide assistance to the community by attempting to reduce crime.⁴

From the findings based on the data collected on the advantages of police over private security, it was noted that there was no outstanding advantages nominated. The two with the highest response are that police have advantages in the areas of legal powers and training. Police have numerous legal powers compared with the normal citizen powers of arrest that can be used by private security.⁵ Although, it can be argued that if private security wear uniforms and drive marked cars similar to police, it may give them de facto authority over people who do not know the differences between police and private security. As police are required to be accountable to the state, there would be an increasing need for accountability from private security as partnerships developed.

Responses on the disadvantages police have over private security regarding crime prevention showed that personnel numbers and too many demands were the main issues for police as nominated by private security.⁶ These thoughts indicate that there is a need to consider ways to overcome these issues. Partnerships between police and private security may assist in this regard. From the responses the majority believe that co-operation is good or very good, however, it is not an overwhelming majority. A lot more work can be done to improve co-operation between two groups both of which are employed to protect the community.⁷

The answers obtained from the questionnaire also indicated that both sectors of the security industry felt that police were disadvantaged by a lack of numbers and too many

⁴ Golsby M. Police and Private Security Working Together in a Co-Operative Approach To Crime Prevention And Public Safety: Conference "Paper Presented in Hobart" on 26-27 Feb, 1998, p.49.

⁵ Questionnaire data (Nairobi, August, 2011).

⁶ Ibid.

⁷ Ibid.

demands being placed upon them.⁸ This emphasises the need for the police to find additional assistance from the community, including the private security sectors

4.3 Challenges facing collaboration

Despite Kenya's very high level of crime and insecurity, there is remarkably little co-operation and co-ordination of security initiatives. The relationship between the police and the private sector is often characterised by competition and suspicion, and a lack of policy consistency undermines oft-stated desires to achieve greater coordination and effectiveness. A lack of clear direction from the police and/or the government over the appropriate role of private security and the relationship between the public and private security sectors has exacerbated this situation, as have divisions within the private security industry itself.⁹

Global companies, as well as the leading Kenyan companies, use their status as security experts and their access to state-of-the-art technologies to lobby and influence the government. Local companies, on the other hand, often possess significant social and political capital, in part from belonging to the same ethnic group as powerful politicians. Thus, the security industry association that openly boycotts the government's minimum wage not only sported a Government Minister at its launch, but also continues to sign significant government contracts.¹⁰

The cooperation between police and private security companies is not satisfying. This is an opinion shared by all respondents. One manager of a security company¹¹ gave the following comment:

"in most cases contacts exists only when the police need to react in cases of committed criminal offences. Besides that, when the companies initiate contacts with the police in connection with their work, usually the police is reluctant to respond. If that is not the case, then the quick reaction of police is based on personal acquaintance (friendship) of contacts person from the police and security companies. There are no

⁸ Questionnaire data (Nairobi, August, 2011).

⁹ Abrahamsen, R et al. Globalisation of Private Security. "Country Report- Kenya"; op. cit., p.13.

¹⁰ Ibid p.11.

¹¹ Interview with a manager of a security company, (Nairobi, August 2011).

memorandum of understanding between the police and private security companies despite the fact that it is a good practice to define cooperation, communication and exchange of information`. There is room to improve the cooperation in the opinion of all respondent

In Kenya, the relationship between police and private sector is influenced by the lack of any clear regulatory framework for the private sector, and the absence of a clear and consistent policy framework structuring the public-private security relationship. This is in part a consequence of different levels of police jurisdiction making specific arrangements with private security providers in their areas, and in part due to changes in leadership and the police reform processes currently underway. For these reasons, there is at present little formalised co-operation between the public and the private security sectors.¹²

An issue that impacts on any future liaison between police and the private security sector is that there are numerous bodies representing different segments of the public security sector. The different groups have disparate views and communicating with so many of them will present challenges for the police. Also, different bodies represent members of the private security industry.

4.4 The nature of collaboration

Public-private, global-local security networks in Kenya are often informal, ad-hoc and dependent on personal, rather than formalised, legal relationships. The result is a lack of policy consistency which undermines oft-stated desires to achieve greater coordination and effectiveness. This in turn has important consequences for security provision, and ultimately also for social cohesion. The current lack of co-ordination and co-operation could result in a gradual privatisation of public policing, and hence an intensification and deepening of existing social inequalities. Given adequate level of co-operation between public policing and

¹² Abrahamsen, R et al. Globalisation of Private Security. "Country Report- Kenya"; op. cit., p.14.

private security companies, on the other hand, private security could potentially act as a 'force multiplier' increasing security for all sections of society.¹³

A high degree of suspicion also exists, with the police inclined to regard private security guards as frequent law-breakers and PSCs quick to point out the involvement of police officers in criminal activities. Currently, a number of different forms of co-operation exist between the PSCs and the police, but most of these are adhoc and not formalised. Co-operation with the division of the Kenyan Police Force known as the Administration Police is perhaps the most straightforward, in that this is an armed force for hire to clients, including embassies, banks, supermarkets and PSCs. The Administration Police is sometimes hired by PSCs for Cash-in-Transit, at the cost of approximately US\$3 per officer per hour.¹⁴ The high costs of the Administration Police make this an unaffordable arrangement for many companies. In addition, personnel from the paramilitary General Service Unit (GSU) are stationed at many embassies and particular high-risk sites, and co-operate with PSCs in these instances.¹⁵

On a day to day basis, however, the most important form of co-operation between PSCs and the police is in the form of responding to incidents and alarms from clients. The private security sector in Kenya is unarmed, and PSCs accordingly rely on police backup for any serious incident involving firearms and other weapons. Most security companies report that the number of armed incidents has increased significantly in recent months, with many companies referring to more than five incidents a week involving firearms. This poses a serious challenge. Simply responding with non armed guards provides limited security for clients, while simultaneously placing guards in significant danger. Guards are instructed to withdraw and wait for police assistance in the case of any serious incident, and PSCs will frequently send a vehicle to pick up police officers in order to ensure a more

¹³ Abrahamsen, R et al. Globalisation of Private Security. "Country Report- Kenya"; op. cit., p.14.

¹⁴ Ibid, p. 12

¹⁵ ibid, p.15

rapid response. In the case of alarmed response services, current practice is to send one vehicle to the incident and another to the nearest police station to transport the required number of officers to the scene. This not only potentially delays effective response time, but also carries the risk that there may be no available police officers at the station.¹⁶

There is a clear sense among most PSCs that this arrangement is unsatisfactory. As they point out, PSCs and police have a common interest in preventing crime, and whereas the police are short on transport and resources, the PSCs have approximately 200 alarm response vehicles stationed at strategic locations around Nairobi at any one time. The Kenya Security Industry Association (KSIA) is currently lobbying for the reinstatement of a previous pilot arrangement, whereby individual PSCs took main responsibility for various residential areas and the police provided two officers per PSC vehicle. While this arrangement predominantly increased security to residential customers that could afford to pay for private services, the vehicles also responded to incidents involving non-paying members of the public. That said, it is unclear precisely how the division of public and private responsibilities and priorities is determined under such arrangements.¹⁷

Whereas some companies appear to have succeeded in hiring police officers on their patrol vehicles through ad-hoc arrangements, the majority patrol without police or any armed support. While one industry representative describes the PSC-police relationship as “totally collapsed”, it is probably more correct to say that it depends to a large extent on the personal relationships between company directors, high level police officials, and individual station commanders. In other words, the relationship between PSCs and police in Kenya today is primarily of a private nature, depending on individual contacts, rather than any

¹⁶ Abrahamsen, R et al. Globalisation of Private Security. “Country Report- Kenya”; op. cit., p.14.

¹⁷ Ibid. p.15

formalised relationship or contract. The relationship needs to be formalised and documented in order to minimise its arbitrary and ad-hoc nature.¹⁸

From the interview, it was found that liaison occurs between the security industry and the police, but by far the majority of the contact is at 'street' level where patrol officers, store detectives and crowd controllers have regular contact. There was little evidence of contact between executives from the police and security industry.

Partnership is based on a relationship where the private security industry is considered subordinate to the police. This may be due to lower training standards being accepted by private security. The police are seen to be superior in the areas of legal powers and training. Legal power is an important issue if the different sectors move together. Already, private security dress to look like police and drive vehicles similar to those of police. Partnership arrangements with the police will give private security a higher profile and informal authority. Therefore, there is the need for greater accountability if partnership arrangements occur.

4.5 Areas of Collaboration

Collaboration between state and private security providers is common in Kenyan cities. Typically, collaboration involves sharing intelligence, equipment, training, and operational responsibilities. A state-private sector partnership arrangement has produced positive results in Nairobi, Kenya. City center policing is run by Nairobi Partnership, which is an organization established and controlled by the city council and the business community. Private security guards patrol the area and secure public spaces in the city center. They maintain contact with the city police control room by radio and also supervise the area's closed circuit television (CCTV). There are concerns that this approach merely displaces crime and that "undesirables" such as street families, the homeless, and beggars are

¹⁸Abrahamsen, R et al. Globalisation of Private Security. "Country Report- Kenya"; op. cit., p.14.

“criminalized.” Nevertheless, the program is seen as a great success in creating a more secure city center and an attractive investment and tourist destination.¹⁹

Regarding areas that need improved co-operation responses showed that cooperation with training and use of facilities rated highly with the private security. This would increase the level of understanding, improve liaison and cause ideas to be discussed that could develop into partnership arrangements. The police saw that there would be advantages if some functions were divested.²⁰

The area that rated the highest for improving co-operation was improving liaison. This was the comment across all sectors. If the liaison was given direction, that is, to reduce crime in the state in which the sectors operate, the liaison will have greater focus.

Police indicated in the survey that co-operation could occur in the areas of crime prevention resources, specialised security equipment, and the private security sector having responsibility for some paperwork and for some functions (alarm attendance).²¹ The private security industry wanted access to expertise, and areas of training and facilities. Their needs are different from police but these may lead to areas of compromise, as there was a significant interest in increasing the liaison and sharing of information between police and private security. Obviously, information sharing has to be in accordance with the law and established guidelines.

The findings from the interview showed that private security officers believed that they really cooperate with police officers in a process of enabling security and law enforcement. They assessed their mutual relationship as good. The police respondents, however, were far more reserved on these relationships. Both groups believed that private security will play an increasingly important role in social control in the future, but they

¹⁹Sotlar A, Relationship between Private and Public security Sectors - From Coexistence to Partnership?(op. cit. p.4.

²⁰ Ibid, p.4.

²¹ Ibid.

doubted that private security companies will ever be allowed to manage some sensitive security areas. Private security respondents were against allowing police officers to work as private security officers in their off-duty hours.²²

Police respondents to the interview were not surprisingly more in favour of this, despite being more skeptical than private security respondents about the possibility that in the future the police and private security companies will work well together. A police chief²³ and a private security manager²⁴ thought that despite some occasional problems, co-operation between the police and private security industry is good. They indicated that such co-operation mostly involves common protection of public gatherings, transport and security of money, handing over suspected criminals to the police and information exchange. Cooperation was thus depicted as being at tactical and operational levels, while less common at the strategic level, and is achieved mainly through informal contacts between police officers and private security officers. Both private security managers and police chiefs believed that co-operation between both organisations must result in a synergy for Kenya's internal security. However, conditions for such effective co-operation are not yet well developed, and needed changes are still in progress. The relations between private security companies and the public security sector are more accurately described as rivalry than partnership. The increasing demand for private sector services is rooted in increased levels of crime in Kenya at the moment, at a time when levels of trust between citizens and state are extremely low.

There was a strong view, articulated by the majority of police interviewees, that certain tasks could not be delivered by private security staff, specifically policing public space where there was the potential for conflict. Police surveyed felt strongly that emergency response, patrolling and investigation should not be outsourced to the private security

²² Private security guards and the administrative police working in banks (Nairobi August 2011).

²³ Interview data with police, Nairobi (Nairobi, August 2011).

²⁴ Human resource manager of a security company, (Nairobi August 2011).

sector.²⁵ There were a number of reasons for this, and many related to those already mentioned: the lack of accountability of the private sector to the public, its profit driven nature, the potential for inequity of service, and the lack of credibility of the private security sector, which could rub off on the police.

4.6 Resources

It is true that private security actors lack the resources and skills to address international crime. Their contributions toward everyday policing, however, afford the official police greater latitude to redirect some of their resources to the threats of international and organized crime. Private security actors also offer the police a vital intelligence network of such criminal activity. Moreover, inasmuch private policing extends acceptable security provision, it promotes social equity, the lack of which is often argued as a contributing factor in the rise of crime.²⁶ In short, there are sufficient success stories of private security policing at the local level to suggest that innovative national frameworks for security partnerships *between state and private security actors* can be used widely and systematically for addressing rising urban crime in Kenya.

It was interesting to note that there was limited support from any sector for a single communications network, yet the next item indicated that there was positive support from all sectors for access to police stolen vehicle checks. Obviously, there is some support for access to information but not through traditional police communications systems that are closed access to others involved in the security industry.²⁷

A comparison of perceptions on training of the police and private security shows that there is a large gulf between the training of the two. It is perceived that the training of police

²⁵ Human resource manager of a security company, (Nairobi August 2011).

²⁶ Sotlar A, Relationship between Private and Public security Sectors - From Coexistence to Partnership?(op. cit.

p.5.

²⁷ Questionnaire data (Nairobi, August 2011).

is generally good whilst the training of private security is generally poor.²⁸ This will present a problem for partnership arrangements if this is true. Consideration should be given to reciprocal training to provide greater compatibility and reduce the possibility of friction between the two areas.

There was common support for the police to have access to the weapons and other resources. Each security sector, in general, believed that it should have access to them but was more reserved about its counterpart. A director of one of the security firms remarked,²⁹

“ we have considerable experience in handling arms ... Private security providers are facing new challenges. Guarding important premises like banks, business, private homes and cash-in transit services have become increasingly high-risk operations and constant targets by criminals. Our guards have to be supported by armed police. If the government armed private guards, I am confident they can effectively guard businesses in the central business district for instance. Police officers deployed can be released to other duties. ”

4.7 The future of police-private security collaboration in Kenya

The researcher established that in order to re-orient the police from a force to a service in line with the current reform process, the amendments of the Police Act (Cap. 84) will be necessary to facilitate change of name to Kenya Police Service. The National Police Service Bill, 2011 is in place to care of this concern. However, the bill has only provided modalities for the police to work with the community through community policing initiatives and has no mention of partnership with private security. The bill however gives the Inspector General Powers to put in place a system of ensuring continuous and sustainable police reforms with regard to police operational matters³⁰. It is hoped that in future police collaboration with private security in matters of security will be addressed as well. The police were of the opinion that recent amendment of the Evidence Act requiring that confessions

²⁸ Questionnaire data (Nairobi, August 2011).

²⁹ Interview data with a manager of a security company (Nairobi, August 2011).

³⁰ The Kenya National Police Service Act, 2011 p.815.

from suspects may only be obtained before a magistrate, may hamper police work in crime investigation, detection and prevention.³¹

The establishment of the office of the Inspector General with rules governing the appointment, removal and security of tenure of the office will play a crucial role in determining whether the service is properly insulated from interference and certainly increase its ability to act in obedience to the law, and to make operational decisions in accordance with its own best judgment. If this process is transparent, objective, and impartial, the Inspector General will be afforded expanded space for operational autonomy and subject to clear policy directions.

However, the relationship between private security providers and the public police is crucially important in the effective delivery of security. In Kenya, this relationship is influenced by the lack of any clear regulatory framework for the private sector, and the absence of a clear and consistent policy framework structuring the public-private security relationship. This is in part a consequence of different levels of police jurisdiction making specific arrangements with private security providers in their areas, and in part due to changes in leadership and the police reform processes currently underway. The National Police service Bill, 2011 addresses the private use of police officer in the protection of public good or interest³². However the different segments of police still remain in place with no direction on how they should relate with private security. For these reasons, there is at present and future little formalised co-operation between the public and the private security sectors. A high degree of suspicion also exists, with the police inclined to regard private security guards as frequent law-breakers and PSCs quick to point out the involvement of police officers in criminal activities.

³¹ Interview with the police, (Nairobi, August 2011).

³² The National Police Service Act, 2011.

There are a number of barriers to closer partnership working between the police and the private security sectors. However, it is clear that there are also significant drivers to improve partnership working which includes among others, the increasing demands placed on the police from the general public, counter terrorism and serious and organised crime, within a context of cut-backs in public spending call for innovation in service delivery in order to increase efficiencies. This context presents opportunities for closer working with the private and private security sectors

The underlying principle for establishing policing partnerships between the private security industry should not be whether the former can replace policing functions but rather where they can supplement and be supportive of overall policing actions. In addition, there can be no talk of the provision of security outside of the formal structures of the state. Furthermore, it is certainly not a question of privatising crime control but co-operating in the fight against crime and coordinating the joint efforts in this regard. The bottom line would then be that the police cannot afford to or be seen to abdicate from their policing responsibilities and line functions. Moreover, it must be borne in mind that while the security industry has a vast amount of expertise and manpower at its disposal, this will only be made available if there is a collaboration with private security actors and if such co-operative actions are covered/protected by the law³³.

More specifically, such co-operation must not be used to advance the private interests of any commercial clients of private security companies. Public-private partnerships between the private security industry and public policing agencies would therefore clearly provide mutually beneficial features within a collaborative approach as well as further opportunities for increased systems integration between the two parties by specifically

³³ Sotlar A, Relationship between Private and Public security Sectors - From Coexistence to Partnership?(op. cit. p.5.

drawing on private sector resources like CCTV and other technology driven strategies and data collection methods³⁴.

The private security personnel wear uniforms to look like police and certainly, from discussion with police they consider that this is an issue. The Private Security Regulation Bill 2010 is very particular about this.³⁵ However, a counter argument is that uniforms increase the agents of social control to the exposure of criminals or potential criminals.

4.8 Conclusion

There are opportunities that occur from partnerships between police and private security that are principally in the same business of reducing crime but are doing it for different reasons. Police exist primarily for the public good whilst private security exists to make a profit, but they are both reducing crime. Surely, this provides a sound argument to build and strengthen the existing partnerships between police and private security. Difficulties will occur when there is a conflict between the public good and the profit motive but the potential benefits outweigh the disadvantages. It is certainly not a question of privatising crime control but cooperating in the fight against crime and coordinating the joint efforts in this regard. Collaboration should not be used to advance private interests of private security companies.

As previously stated, this report is based on the fundamental premise that police and private security involved in security are all ultimately trying to prevent crime. The different sectors, namely the public and private arenas have different motivations for their activities. The police exist to serve the public good whereas private security exists for the profit motive, but private security regularly can be seen in shopping centres mingling with the

³⁴ Sotlar A, Relationship between Private and Public security Sectors - From Coexistence to Partnership?(op. cit. p.5.

³⁵ The Kenya Private Security Regulation Bill, 2010.

crowds, and used regularly at sporting events alongside the police. Regardless of the motivations for being, if it is accepted that the different sectors are in the business of crime prevention, then there are opportunities for a coming together, for the formation of partnership arrangements to provide a more concerted, efficient attack on crime and consequently to make people feel more safe. No longer can the police be expected to control and prevent crime without the active support of the wider community. Many ex-police and others with an interest in crime prevention and public safety are engaged in the private security sector and many of these people have expertise that could enhance the success of a national crime prevention and public safety program. To omit such a large body of personnel that could contribute so much to the program, a body that has the same aims as the public police, that is, crime prevention and safety would be a waste of community resources.³⁶ Without a collective action, collective goods can be under-produced. Thus security is under-produced in Kenya. Security is a good with a special characteristic that its enjoyment cannot be restricted to those who have financed its production. The theoretical framework has adequately been addressed.

The research problem acknowledged that there is rising insecurity in Kenya's witnessed by increasing proliferation of small arms resulting from porous borders, kidnappings, robberies and carjacking. Private security comes in to fill the evident security gaps. However their presence in the security field has not stemmed out insecurity. This calls for collaboration between the police and private security. The study has successfully explored the role of public and private security and the challenges they face. The Kenya Security Regulation Bill, 2010 is a step towards regulating private security. However, collaboration between the police and the private security still remains informal and ad-hoc without any legal basis. In this regard, the research problem still remains a problem in Kenya as of now.

³⁶Ruteere et al (2003), cited in D.Mwaniki. Research Paper for M.A in Community-Police partnership, Kenya (The Hague, The Netherlands, Nov. 2010),p.65.

The objectives of the study sought to identify opportunities for the private sector to work better and closer with the Kenya police, and identify areas of antagonism due to poor communication, attitudes, perceptions or procedures. The study has identified many opportunities for the two to work together which includes among other increasing demands placed on the police by the general public, counter terrorism and serious organised crime within a cut-back on public spending, the need to share intelligence, equipment, operational responsibilities, training, and above all, the need to reduce crime.

Antagonism is also evident. There is little cooperation and coordination of security initiatives. Security networks are characterized by competition and mutual suspicion. There is lack of clear direction from the government on the relationship. The empirical study established that police are reluctant to respond to assist private security in their work. There is no memorandum of understanding despite that cooperation, communication and exchange of information needs to be defined. Relationship is influenced by lack of clear regulatory framework for the private sector and the absence of consistency policy framework structuring public-private partnership. Private security is considered subordinate to the police. There is no support of a single communication network and the private security cannot be allowed to manage sensitive security areas at strategic level except at the tactical and operational levels. The above argument shows that the objectives and the hypotheses have adequately been addressed by the study.

It is clear from this argument that, provided there is sufficient and enforceable regulation, PSCs can contribute to improving the security situation in Kenya and thereby also further economic development. This must not, however, come at the price of further damaging social cohesion whereby security becomes a commodity that only the wealthy can afford and whereby the disenfranchised remain the disenfranchised. Without undivided access to security for all members of society development remains close to unattainable. The

private security market alone cannot meet these challenges, even if the necessary funds were made available. The government must not abrogate its obligations to its citizens, in particular when it comes to one of the state's core functions--that of providing security. Most importantly, the government has to develop and enforce effective regulation for its national private security sector in order for the industry to contribute meaningfully to the creation of a secure and stable environment.³⁷

³⁷ Wairagu, et.al: Private Security in Kenya (security Research and Information Centre (SRIC), Nairobi, 2004),p.89.

Chapter Five

Conclusions

5.1 Introduction

Chapter four identified areas of collaboration in Kenya while examining their reality in the context of the data collected. This chapter provides the conclusions of the study.

This aim of this study has been to explore the public-private security collaboration in Kenya. Collaboration aims to achieve public safety and security by creating partnership between law enforcement security agencies and the private security, and building public trust and confidence in the police, which is expected to increase mutual accountability, improve police performance and ultimately contribute to reduction in crime and fear of crime. This chapter provides conclusions of the study.

Local police who participate in collaborations recognize that private security actors present opportunities to enhance police effectiveness and institutional reputation. Further, one can argue that in the case of commercial security, they guard the principal economic assets of many Kenyan cities—banks, hotels, factories, international organizations, embassies, and even government and UN buildings. The stability gained, in turn, encourages further economic development.¹

The researcher believed that it can be successfully argued that the police and private security are in the business of crime prevention and therefore there is commonality that encourages the formation of partnerships. The motivation for private security to become involved with the police is that any partnership with the police would give them more credibility. For the private security to have accreditation that is recognised by the police, it would give them greater standing in the community and hence more business. Also, more

¹Wairagu, et.al: Private Security in Kenya op. cit., Nairobi, 2004),p.89.

qualifying standards would enable existing players to maintain or increase market share whilst at the same time making it more difficult for new players to enter the industry.²

Because of a perceived lack of formal qualifications and credibility amongst practitioners in the private security industry, it appears that some organisations (and individuals) do not believe that the private security sector is capable of contributing to a professional community crime prevention program. This is reflected, for example, in the views of some police, who seemed to have a perception that private security is a competitor, rather than an enhancement or assistant to the police role. However, with the growth and sophistication of electronic monitoring systems for building security and intruder detection, there has been the growth of manufacturers, installers and people who monitor these systems. This area of private security would not be considered inferior to police systems. Police employ private security to install these systems in police premises and therefore police are the junior partner in this aspect.³

The problem with private security is that it consists of many components and cannot be considered a single agency to which police could relate. Certainly, when discussing this project with members of the private security industry, the researcher found that they considered the police the primary actor in the business of crime prevention,⁴ and these observations were also found by other researchers in the literature review.⁵ The critical difference between the police and private security, in this view, is the fact that they are supported and directed by different sectors of the economy. Both police and security spokespersons who support this view agree that the police occupy the senior and leadership role in this partnership. Private security personnel are viewed as junior partners in the

² Ruteere et al (2003), cited in D.Mwaniki. Research Paper for M.A in Community-Police partnership, Kenya op. cit. p.60.

³ Ibid, p.60.

⁴ Interview security guards, Nairobi (august, 2011)

⁵ Shearing, et al Corporate Perceptions of Private Security, "Canadian Police College Journal". Vol. 9, No.4(1985),pp 360 – 378, p.368.

business of maintaining order, assisting the police in their activities and deferring to the police as they go about their duties.⁶

Although it needs to be recognised that partnerships between police, private security and business leave open individuals to corruption or, at the very least, allegations of corruption, liaison arrangements need to be set in place to ensure that there is the maximum potential to reduce crime, but also to ensure that the exchange of information, and sharing, in whatever form it takes, occurs with proper consideration to the law, and the ethics of all organisations.

Relationships between the state and private security are becoming more and more complex. The fact that the police are typically regulators of private security as well as potential competitors in the provision of policing services raises questions of conflict of interest. But in many circumstances police and private security have quite different policing responsibilities and are not really in competition with each other. But like in Kenya where police organisations are assumed to be corrupt, private security companies can offer effective alternatives if they are will regulated

With the process of decentralisation, however, police are losing their traditional monopoly over the provision of policing services, and under these circumstances it is not surprising that they are reluctant, for instance, to share information with the private sector.⁷

The police reform programme in Kenya currently being developed by the police service in consultation with relevant authorities must aim at contributing to national stability. To deliver the necessary performance improvements, the police service is under reform so that it is characterized by: a more customer focused service; the highest possible levels of efficiency and effectiveness; integrity, impartiality and respect of all citizens; professionalism in service delivery; a diverse workforce representative of all service professions; consistent

⁶ Shearing, et al Corporate Perceptions of Private Security, "Canadian Police College Journal", Vol. 9, No.4(1985),p.368.

⁷ Ibid.

and effective use of science and technology; ability to work flexibly across geographical and institutional boundaries; an ability to work in partnership with other agencies contributing to community and public safety; terms and conditions that meet the needs of the service and all those working within it. A transition from a "force" to a "service" in Kenya is a fundamental transformation in the way the individual police officers apply themselves to their work and conceives their relationship to the public, day in and day out. The relationship between the state and the private sector with respect to the provision of policing and security is a complex one and there is still not have a very good understanding of how, and why, one provider is preferred over another. But it seems that some kind of joint provision has now become accepted as the norm within most societies, and that such cooperation and partnership is considered both desirable and necessary. So progress may best be ensured if the two sectors can find ways to share their experience and learn from each other.

It is clear from the available literature and from the empirical study that if there are to be successful partnerships between police and private security, there needs to be higher levels of liaison between the different sectors to consider strategic partnerships that have the potential to reduce crime. There needs to be enhanced working relationships between police and private security with respect to crime prevention. This should occur at lower management areas that are primarily concerned with the direction of crime prevention activities.

The controlling governmental body for private security, in conjunction with representatives from the private security sector should set selection and training standards for private security. There is need for the government to negotiate a division of labour that would allow private and public actors to specialise in their areas of competence. Within such arrangements, the core security functions of the state must not be privatised. These include combat duties, intelligence work, prisoner interrogation, detention, prosecution and prisons. The capabilities of the private sector in training and advising security forces as well as in

providing protection and needs to be harnessed by the state to bolster security provision. The sector cannot be approached simply in terms of regulation, but needs to be regarded instead as part of a wider network of security provision, involving the state, private actors and the civil society.⁸

The private security sector is not well regulated. As a result, the services provided by most firms are of low quality. This study recommends establishing an appropriate regulatory framework to coordinate and provide oversight for private security sector companies. The framework should clearly define: the role of the private security firms; a credible institution to regulate and license private security personnel and businesses; explain the responsibilities of private companies in insuring personnel, and developing training standards for the industry; the code of conduct for the industry; best-practice terms and conditions of employment; and, an effective a dispute resolution mechanism. Already, the Private Security Regulation Bill 2010 has some of these provisions.

Allied to these initiatives there should be a review of the professional qualifications currently available to private security officers. These should be aligned with making a more meaningful contribution particularly where they are directly involved in crime prevention and partnership policing.

Notwithstanding the scepticism about police-private security collaboration, the importance of good police-private relationship and reduction of crime are nevertheless considered of critical importance to warrant more policy attention. However, there is lack of a systematic in depth analysis of the dynamics of police-private security interactions in Kenya. Future studies should consider micro-level analysis of the interactions between the police and private security. Specifically, deeper analysis of the police attitudes towards the private security and what factors influence these attitudes. Experience from other developing

⁸ Sotlar A. Relationship between Private and Public security Sectors - From Coexistence to Partnership?(op. cit. p.5.

countries has pointed to the importance of the attitudes of the police towards private security as having important implication for its implementation. A better understanding of the private security would help develop more appropriate training and relevant incentives.

In conclusion, a tendency to define 'security' in a new and increasingly many-faceted ways creates a whole range of new and sometimes very active interfaces between the relevant private and public sector players in Kenya. It was noted that the relationship between the private and public security sectors can be problematic for various reasons, due especially to the variety of ways in which the two sectors interact. Conflict can arise between public police and private security companies when they are both working in the same area or during the same event. The problem of competition and conflict between police and private security companies is aggravated when the police are the oversight institution which monitors private security companies' compliance with the law. Provided that private security companies are well managed and functioning on the basis of a clear legal framework, this is not necessarily a problem. Public opinion about such public/private co-operation should not be overlooked, because public trust is an essential pre-requisite for effective policing provision, whether such provision is by the public police, private security, or by both in partnership with each other.

The basic message is that, due to developments in society, it is more important than ever before to use all possible means to fight crime. The fight against crime cannot be waged successfully without the help of private security and better cooperation between the private security organisations and public law enforcement agencies. Besides, it is urgent to build partnerships between private security companies and police, including partnerships between private security companies themselves. This is possible to achieve in various ways, one of them being drafting a memorandum of understanding and developing the awareness of partnerships and joint activities with the overall goal of contributing to the security and safety of the society.

Bibliography

Books

Johnson and Shearing (eds), Cited in Abrahamsen R. et al. "Globalisation of Security".(University of Wales Aberystwyth, 2005)

Muchai. A., Kenya Crime Survey, Nairobi: (Security Research Information Centre Nairobi 2003),

Nalla M. and G.Newman, A primer in private security,(Harrow and Weston, New York 1990)

South, N. Policing for Profit: "The Private Security Sector"(Sage Publications, London, 1988)

Wakefield, A. Selling security: "The private policing of public space". (Cullompton: Willan Publishing, 2003).

Weber. M; cd. T. Parsons; The Theory of Social and Economic Organization (Free Press: New York, 1964)

Official Documents

Abrahamsen R. and C.Williams, Ethical Challenges of Security Privatization (University of Ottawa, Sept. 2009)

Abrahamsen, R. and M.C.Williams. *The globalization of private security; Country report: Kenya*, (Aberystwyth, University of Wales, 2005b).

Abrahamsen, R., and M. Williams, The Ethical Changes of Security Privatization. (International Peace Research Institute Sept. 2009)

Bottoms, A.E. & P.Wiles, Crime and insecurity in the city. Paper presented to the International Society of Criminology International Course on: Changes in society, crime and criminal justice in Europe. Leuven, Belgium. (May 1994).

Cunningham, W.C., J.J.Strauchs, and C.W.Van Meter,, *Private Security Trends 1970 to 2000 The Hallcrest Report II*. (Butterworth-Heinemann, Boston USA,1990).

Gill M. et al .The Private Security, the Corporate Sector and the Police: *Opportunities and Barriers to Partnership Working* (Perpetuity Research and Consultancy International Ltd UK, 2010)

Hanggi H, Making Sense of Security Sector Governance, in Hanggi H. and Winkler T.(eds). *Challenges of Security Sector Governance* (Munster, LIT, 2003)

- Hanggi, H. (ed.) *Practical Confidence-Building Measures: Does Good Governance of the Security Sector Matter?* Working Paper no. 107
- Holmqvist, C.. (2005) *Private Security Companies: The Case for Regulation*. SIPRI Policy Paper No. 9. (Stockholm International Peace Research Institute, January 2005)
- Irish, J. *Policing for profit: The future of South Africa's private security industry*. *ISS Monograph*, 39. (Pretoria: Institute for Security Studies, 1999).
- Kariga, L., *A Profile on Crime and Insecurity in Kenya: Development Management Forum* (PDF)
- Kenya National Bureau of Statistics (KNBS), (Nairobi, Kenya.2009)
- Krahmann, E. *The Commoditization of Security*. Full Research Report. ESRC. End of Award Report, RES-000- 22-1516, Swindon: ESRC (2008).
- Lathbury, C.J.. 'Police and the Security Industry: A Strategic Partnership' Unpublished paper presented to the *48th Police Management Development Program*, (Australian Police Staff College October 18- December 10, 1993).
- Mill, S. in H.Acton (ed.) *Unitarianism (1861) on Liberty and Considerations on Representative Government*. (London. Dent, 1992)
- Minnaar A. *Oversight and Monitoring of Non-State/Private Policing: the Private Security Practitioners in South Africa*. (Pretoria; 2006)
- Minnaar A. *Identifying Opportunities and Initiatives for Police and the Private Security Sector to Work Together to Contribute to Crime Prevention in South Australia*. *Unpublished briefing paper to the Executive Committee, Security Institute of South Australia Inc.*. Adelaide (1993).
- Minnaar A. *Partnership policing between the South African Police Service and the South African private security industry*. (Information document prepared for National Policy & Strategy, Division: Management Services, SAPS.) *SAPS Research Centre*, Pretoria. (June 1997).
- Minnaar A. *Private-Public Partnerships: Private Security, Crime Prevention and Policing in South Africa IPES Working Paper No 9*, (May 2007).
- Nalla, M. and G.Newman *A primer in private security*, (Harrow and Weston, New York, W.C. and Taylor, T.H. *The Hallcrest Report1: Private Security and Police in America*, Butterworth, Boston (1985

- National Taxpayers Association (NTA): Scoping Study; Public Security Services in Kenya (March, 2010)
- Policy Paper: Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder (U.S, 2004)
- Rccs. A.S. (1983) 'The Problems of Research into Private Security in Australia' Proceedings - Training Project No. 49/5 *Policing and Private Security*, 70
- Republic of Kenya (RoK) KNBS (Nairobi 2009a)
- Rita Abrahamsen and M.C. Williams, *Security Beyond the State: Private Security Companies and Security Networks in Global Governance*, paper prepared for the Annual Meetings of the International Studies Association San Diego, March 22-25, 2006.
- Sabelo Gumedze Private Security in Africa, Manifestation, Challenges and Regulation, *ISS Monograph 139*, (2007).
- Schonteich, M. Unshackling the Crime Fighters: *Increasing Private Sector Involvement in South Africa's Justice System*, (Johannesburg: South Africa Institute of Race Relations 1999).
- Schreier, F., and M. Caparini, 'Privatising Security: Law, Practice and Governance of Private Military and Security Companies'. Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Occasional Paper No. 6*, (March 2005)
- Schreier, F., and M. Caparini, 'Privatising Security: Law, Practice and Governance of Private Military and Security Companies'. Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Occasional Paper No. 6*, (March 2005), Canberra 1983)
- Shearing, C.D. & P.C. Stenning, 'Private Security and its Implications: A North American Perspective' Proceedings - Training Project No. 49/5 *Policing and Private Security* (Australian Institute of Criminology
- Smith, R.H., 'Private Police - No Way' Private Sector and Community Involvement in the Criminal Justice System' *Australian Institute of Criminology conference*, (Wellington, New Zealand, 1992)
- Sotlar A. Relationship between Private and Public security Sectors - From coexistence to Partnership? (April, 2009)
- Scheye E. State-Provided Service, Contracting Out, and Non-State Networks. "The International Networks on Conflict and Fragility". (OECD,2009)p.2.

- Swol, K. Private Security and Public Policing in Canada. Catalogue no. 85-002-XIE vol.18, no. 13 (Nov. 1998)
- Tanner, F., 'Security Governance: The difficult task of security democratization in the Mediterranean', unpublished conference paper (Geneva Centre for Security Policy: Geneva, 15 November 2002)
- The Kenya National Police service Bill, 2011
- The Kenya Police Service Development Plan :Draft 2. (2003-2007)
- The Kenya Private Industry Regulation Bill, 2010
- The Security Industry in the United Kingdom.*(Cambridge: Institute of Criminology, University of Cambridge, 1972)
- United Nations Development Programme (UNDP), *Human Development Report 2002: Deepening democracy in a fragmented world*, (Oxford University Press: Oxford, 2002)
- Wairagu, F. J. Kamenju and M. Singo, Private Security in Kenya. Security Research and Information Centre (SRIC), (Nairobi, 2004)
- Wilson, P. 'The Australian Private Security Industry: The Need for Accountability, Regulation and Professionalisation'. *Private Sector and Community Involvement in the Criminal Justice System*, Australian Institute of Criminology conference,(Wellington, New Zealand 1992).
- Nalla, M.K. Police: Private Police and Industrial Security. In: J. Dressler (Ed.) *Encyclopedia of Crime and Justice*, 3. 2nd ed. (New York: Macmillan, 2002) November 30 - December 2, 1982. Australian Institute of Criminology, Canberra
- Golsby, M.J. and R.J.O'Brien, 'Working Together - A Co-Operative Approach to Crime Prevention in South Australia', *First Security Research Symposium*,(Griffith University, Brisbane, February 1 – 2, 1994)
- Golsby, M.J. 'The Potential for the Private Security Sector to Contribute to an Overall Community Crime Prevention Strategy', *Crime Prevention Strategies for the 90s*, (Griffith University, Brisbane July 12- 13, 1999)
- Stenning, P.C., 'Private Policing - Some Recent Myths, Developments and Trends' *Private Sector and Community Involvement in the Criminal Justice System*, (Australian Institute of Criminology conference, Wellington, New Zealand November 30 - December 2, 1992).

Minnaar A. Partnership Policing: Is there any role for the private security industry to play in assisting the South African Police Service in crime prevention. Paper presented to the Greater Johannesburg Metropolitan Council, Institute for Security Studies (ISS) & Secretariat for Safety & Security (SSS) International Conference for Crime Prevention Partnerships to Build Community Safety: *Urban Safety – Safety for All*. Parktonian Hotel, Johannesburg. 28-30 October, 1998).

Minnaar A. Comparative review of the regulating of the private security industries in South Africa, Australia and the United Kingdom (UK). *Paper presented to the 6th Biennial International Criminal Justice Conference (2006)*

Seminar on Public-Private Partnership, The Hague, The Netherlands (16 and 17 December 2002)

Golsby M. police and private security working together in a co-operative approach to crime prevention and public safety: Conference Paper Presented in Hobart on 26-27 Feb, 1998

Smith. R.H. (Ed). Private Sector and Community Involvement in the Criminal Justice System, Australian Institute of Criminology Conference Papers, (Wellington, 1992)

Television Documentaries

The Citizen Television, The state of policing in Kenya; 12/6/ 2011, 1330hrs

Unpublished material

Ruteere et al (2003), cited in D.Mwaniki. Research Paper for M.A in Community-Police partnership, Kenya (The Hague, The Netherlands, Nov. 2010),p.65.

Journals

Abrahamsen, R and M. Williams, ‘Introduction: The Privatisation and Globalisation of Security in Africa’, “International Relations”, 21: (2007),131-141.

Abrahamsen, R.; M.Williams, 2008. Public/Private, Global/Local: The Changing Contours of Africa's Security Governance “Review of African Political Economy”, 35 118:(2008),539-553.

Berg. J. The private security industry in South Africa: A review of applicable legislation, “South African Criminal Justice Journal”, 16(2): (2003), pp. 178-196

Button, M (2007) Assessing the Regulation of Private Security across Europe, “European Journal of Criminology”, 4: (2007), pp. 109-28.

Button. M. Assessing the Regulation of private security across Europe, “European Journal of Criminology, 4 (1): (2007), pp.109–128.

- Greene, J.R., M. Seamon, and R. Levy. Merging Public and Private Security For Collective Benefit. "American Journal of Police", Vol. 14, No. 2, (1995), pp.3-20
- Hummer, D. and M.K.Nalla, (2003), "Modeling future relations between the private and public sectors of law enforcement", Criminal Justice Studies, Vol. 16 No. 2, pp. 87-96.
- Hoppe, H. H. Fallacies of the Public Goods Theory and the Production of Security. "The Journal of Libertarian Studies".Vol.9,No.1 (Winter 1989)pp.3 – 62
- Isima J. Regulating the Private Security Sector: An Imperative for the Security Sector Governance in Africa. "Journal of Security Sector Management", Vol.5 No.1 (May, 2007). pp.1-16
- Krahmann, E., Conceptualizing Security Governance, "Cooperation and Conflict" vol. 38, No. 1 (2003), pp. 5-26
- Lernihan, M. and A. Siochana, What Core Policing Services will Survive the Challenging Policing Environment of the Future? "Management Journal" (Dec.2008)p.1 – 42, p. 3.
- Minnaar, A & P. Ngoveni., The relationship between the South African Police Service and the private security industry: Any role for outsourcing in the prevention of crime? *Acta Criminologica*: "Southern African Journal of Criminology", 17(1): (2004), pp. 42- 65.
- Minnaar, A. Private-public partnerships: private security, crime prevention and policing in South Africa. *Acta Criminologica*: "Southern African Journal of Criminology",18(1):(2005),pp.85–114.
- Partnership policing: A role for the private security industry to assist the SAPS in preventing crime? "African Security Review", 8(2): (1999), pp.43-59.
- Mkutu, K.,K.Sabala, 'K. Mkutu, K.Sabala, (2007).Private Security Companies in Kenya and Dilemmas for Security, "Journal of Contemporary African Studies", 25,3,(2007),pp 391- 416.
- Muoria E., et al. Community Involvement in Public Safety Improvement: A Study of Nairobi-Kenya "Journal of Human Resource and Entrepreneurship Development", Vol.3 No.1 (July, 2011),pp.65 – 92, p.82.
- Nalla, K.and Hwang. Policing: "An International Journal of Police Strategies & Management", Vol. 29 No. 3,(2006),pp.482-497.
- Nalla, M.K. and D.Hummer, Assessing strategies for improving law enforcement/ security professionals: implications for community policing, "International Journal of Comparative & Applied Criminal Justice", Vol. 23, (1999a),pp. 227-39.

- Nalla, M.K. and D.Hummer, Relations between police officers and security professionals: a study of perceptions. "Security Journal", Vol. 12, (1999b),pp. 31-40.
- Nalla, M.K. and E.Hwan, Assessing professionalism, goals, images, and nature of private security in South Korea. "Asian Policing", Vol. 2 No. 1, (2004),pp. 104-21.
- Nalla, M.K. and G.R.Newman, Public versus private control: a reassessment, "Journal of Criminal Justice", Vol. 19, (1991),pp. 537-47.
- Sarre, R. and Prenzler, T. The relationship between police and private security: models and future directions. "International Journal of Comparative and Applied Criminal Justice". 24 (1): (2000), pp. 91-113.
- Shin, D. I., and Segal, G., Getting Serious about Asia-Europe Security Cooperation. "Survival" vol. 39, no. 1 (Spring 1997), pp. 138-155
- Steden R. and R.Sarre., The tragic quality of contract guards: A discussion of the reach and theory of private security in the world today "The Journal of Criminal Justice Research (JCJR)" - Volume 1, Number 1,(2005) pp.1-19
- Stewart, J.K. Public safety and private police, "Public Administration Review", Vol. 45,(1985),pp. 758-65.
- Wakefield: Public Surveillance functions of Private Security. "Journal of surveillance and Society" Vol.2 No.4 (2005) pp.529- 545

Appendix I

Questionnaire

Questionnaire targeting the police and the private security providers.

This is an enquiry into the collaboration between the police and Private Security in Kenya. The data collected will help in the compilation of the final report that will contribute to the degree of Master of Arts in the University of Nairobi, Kenya. Respondents are requested to respond to the questions by ticking the right choices in the spaces provided. All the information gathered will be treated with strict confidentiality and will only be used for the purpose of this study.

Demographics

Demographic profile of respondents: sex, age and service.

Sex	Police	Private Security
Male		
Female		
Age (Years)		
<20		
20-29		
30-39		
40-49		
50-59		
>60		
Service (Years)		
0-4		
5-9		
10-14		
15-19		
20-24		
25-30		
31-35		
36-40		
>40		

Police/private security ranks

	Police	Private Security
Police		
Probationary Const.		
Constable		
Senior Constable		
Sergeant		
Snr. Sergeant		
Inspector		
Chief Inspector		
Superintendent		
Above Superintendent		
Private Security		
Security Officer		
Security Supervisor		
Security Manager		
Director		
Customer Rep.		
Crowd Controller		
Surveillance		
Instructor		
Other		

Private Security, contact with police.

Q1. As a person identifying with the private security sector, what type of police personnel would you have most contact with and how frequent is that contact

Occupation	Responses	Daily	Weekly	Monthly
Car Patrol				
Foot Patrol				
Criminal investigation				
Traffic				
Enquiries				
Technical Services				
General Station Enquiries				

Note: More than one Response can be given

Police contact with private security

Q2. As a Police Officer, what type of private security personnel would you have most contact with and how frequent is that contact?

Response	Daily	Weekly	Monthly
Crowd Controller (Bouncer)			
Security Officer (Guard or Agent)			
Loss prevention officer(Store Detective)			
Inquiry Agent (Private Investigator)			
Security Trainer			
Other Private Security			

Personal Attitudes/Experiences

Advantages of police over private security

Q.3 what advantages do you personally consider police have, compared to the private security sector, with regard to crime prevention?

	Police	Private Security
Training		
Community Respect		
Credibility		
Legal Powers		

Disadvantages of police over private security

Q4. What disadvantages do you personally consider police have, compared to the private security sector, with regard to crime prevention?

	Police	Private security
Personnel numbers		
Resources		
Too many demands		
Community Alienation		
None		

Cooperation

Q5. How would you rate the current level of co-operation between police and private security?

	Police	Private Security
Very poor		
Poor		
Good		
Very Good		

Areas where to improve co-operation

Q.6. Which areas would you personally prefer to see improved co-operation between the police and the private security industry?

Area	Police	Private Security
Crime Prevention		
Resources		
Specialised Security Equipments		
Expertise		
Sharing Personnel		
Criminal and Intelligence		
Training and Facilities		
Responsibility for Some Paperwork		
Responsibility for some functions		
Other		
No increased Cooperation		

How to improve co-operation between police and private security

Q7. How do you think the level of co-operation between police and private security could be improved?

Police	Private security
Improve Understanding of each other	
Increase liaison	
Define Function	
Increase professionalism of Private Security	
Improve Training of Private security	
Improve Understanding of Private Security	
Share Training	
Increase Accountability of Private Security	

Improve the Selection Standards of Private security Personnel		
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Sharing of resources between Police and Private Security

Q8. Do you think that police and the private security industry should share the following resources?

		Police	Private Security
Communications Network	Yes/No		
Police Stolen Vehicle Checks	Yes/No		
Police vehicle Check for Personal Details	Yes/No		
Police Warrant Checks	Yes/No		

Responsibility for duties - police response

Q. 9. Please tick one letter for each function, or more than one if you think the function could be handled co-operatively.

Legend

A = Police B = Private Security Sector C = Police & the Private Security Sector.

Task	A	B	C
Financial Institution Guards			
24 Hour Business Surveillance			
24-Hour Community Policing			
Attending Speed Cameras			
Prisoner Escorts			
Reporting any Problem Whilst on patrol			
Attending intruder Alarms			
Gathering criminal Intelligence			
Criminal Inquiries and Follow Up			
Escort of Valuables			
Close Personal Protection			
Traffic Control at Public Events			

Residential Foot Patrols			
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Responsibility for duties -Private Security Response

Q10. Please tick one letter for each function, or more than one if you think the function could be handled co-operatively.

Legend

A = Police B = Private Security Sector C = Police & the Private Security Sector.

Task	A	B	C
Financial Institution Guards			
24 Hour Business Surveillance			
24-Hour Community Policing			
Attending Speed Cameras			
Prisoner Escorts			
Reporting any Problem Whilst on patrol			
Attending intruder Alarms			
Gathering criminal Intelligence			
Criminal Inquiries and Follow Up			
Escort of Valuables			
Close Personal Protection			
Traffic Control at Public Events			
Residential Foot Patrols			

Training

Q11. (1) How would you rate the training given to private security personnel?

Rating	Police	Private Security
Very poor		
Poor		
Good		
Very Good		

11. (2). How would you rate the training given to police?

Rating	Police	Private Security
Very poor		
Poor		
Good		
Very Good		

Equipment/Resources

Access to common equipment and resources

Q12. With appropriate training, which of the following services should have access to the following resources?

	Police Response	Private Security Response
Police to have Access		
Batons		
Firearms		
Handcuffs		
Dogs		
Chemical Sprays		
Private Security Sector to have Access		
Batons		
Firearms		
Handcuffs		
Dogs		
Chemical Sprays		