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## **The Private Security Industry**

### **1. Introduction**

South Africa has a large private security industry: it has more officers than the police service and is estimated to be worth R30 billion annually. But the prevalence of private security services has arguably done little to combat the insecurities it aims to address. In fact, the industry itself carries risks that could exacerbate South Africa's crime problems, or at least perpetuate fear. The Private Security Industry Regulation Amendment Bill, currently before Parliament, attempts to further regulate the industry, but critics think it unlikely that this Bill will adequately address the problems of the industry or its current regulatory authority.

### **2. History**

The current private security industry in South Africa can be traced to the late 1970s and early 1980s. Its development was encouraged by the governing political party at the time, the National Party, as a way to address the political climate. The Government ordered that the police engage in political duties and address political unrest, even if this meant they would need to withdraw from traditional policing duties. This left a gap in the security sector for the private security industry to fill.<sup>1</sup> Even as apartheid ended and the transition to a new South African democracy began, this gap remained. Reforms of the security sector were underway, but this transition resulted in an overlap of different political processes and the police service was stuck somewhere between.<sup>2</sup> There were low levels of police recruitment, most equipment was not updated, and there was little improvement in wages and benefits during this time. One of the primary reforms was that the police service was made smaller, and as State security institutions

shrunk, private ones continued to grow.

In the course of these post-apartheid security sector reforms, compromises were made. The new South African Police Service retained many of its officers from the apartheid-era SAP, including some with links and sympathies to the apartheid government.<sup>3</sup> This resulted in a lack of trust between some members of society and even the new, reformed police, a mistrust magnified by the belief that some members of the police are corrupt and are linked to criminal activity.<sup>4</sup> There are also documented cases of police abuse that undermine public trust in the police. Many South Africans believe that even those police who are not tainted by corruption or misconduct are simply incapable of providing adequate protection, or unwilling to make this a priority in all communities. As the trust between civilians and the police continues to break down, more and more people who have the means to do so are turning to private security providers for protection.

One goal of the new SAPS was to emphasize a human rights culture within the police service. This proved surprisingly controversial because there was a perception that it restricted the police too much; some members of the public wanted a more militarized approach and opted to hire private security companies that they believed might be able to use tactics SAPS was no longer able to employ. Further, these changes increased the divide between members of the old SAP and the new, reformed SAPS, causing more officers to leave for jobs within the private security industry.<sup>5</sup> A lack of effective disarmament, demobilization and reintegration programs post-apartheid also led to more people turning to private security companies for employment. Many former combatants and police officers were left with feelings of social exclusion

and marginalization along with few options for employment. As a result, many of them tried to take advantage of their training in the use of violence and access to weapons by seeking job opportunities within the private security industry, further contributing to its growth.

Many attribute the growth in the private security industry to two post-apartheid trends: rising crime rates that are at least partly due to the proliferation of small arms; and the increase in private property.<sup>6</sup> These have led some members of the public to turn to private security for protection out of the belief that the police were not carrying out this task adequately. In reality, the actual crime statistics are unclear: the data is simply not very reliable either before or after 1994, and there is a lack of consistency in how the statistics were gathered which makes it unfair to use them for comparison. It is also unclear if crime rates can truly be used to judge the effectiveness of policing. More important than the actual crime data in accounting for the growth of the private security industry is the way crime is perceived.<sup>7</sup> The private security industry is a closer reflection of the fear of crime and a decreasing public confidence in the police than it is of actual risk. South Africa has adopted a culture of fear in which it has become obsessed with more and more security, often taking the form of barbed wire, security systems and armed guards.<sup>8</sup>

The private security industry has the potential to play a positive role in South African society. Economically, it is a source of foreign direct investment and a major employer throughout the country. The industry also has the flexibility to adapt to new situations and client demands. At a time when the government is repeatedly criticized for lack of accountability to citizens, the private security industry is directly accountable to its consumers. Also, the industry is already established and therefore has expertise and resources available that can be utilized to create a safer society. However, these possible advantages need to be weighed alongside the industry's disadvantages.<sup>9</sup>

### **3. Concerns**

There are reasons to be concerned about the role of the private security industry in SA. The privatization of security is a more complex issue than general issues of privatization due to the

vital and sensitive nature of security. While there may be a global trend towards privatization, that should not stop us from exercising caution when applying this trend to security. Critics have raised various concerns:

#### ***3.1 Motivated by profit***

The motives of a private security company are different from those of the police. Ultimately, private security companies are motivated by profits and seek to maximize them. This is only possible if either demand increases for their services or they implement cost saving measures. Both of these possibilities point to a danger of private security companies exploiting opportunities at the cost of the public interest.<sup>10</sup> It might be argued that, since the industry does not address the root causes of crime, it does not address the insecurities of its clients in any real way; instead, it has an interest in perpetuating these insecurities in order to create more business. Private security companies also have an interest in cutting costs and providing the least expensive service possible, which can easily translate to a lower quality of service, one that does not prevent crime effectively.

#### ***3.2 Only protects those with means to pay***

Even when the private security industry does provide a high quality service, it still only protects the select and privileged group that can afford to pay for security services. Security and policing infrastructure is already inadequate in poorer areas of the country. Private security exacerbates the divide between the wealthy and the poor.<sup>11</sup> Ultimately, it is contended, the private security industry may not have the best interests of the consumer, and certainly not the general public, in mind; it champions individual security, but not the collective security that promotes the public good.

#### ***3.3 Does not promote police reforms and has the potential for the same problems***

The use of private security is not a way around the problems of SA's police service. Perceptions of SAPS corruption and ineffective policing may be a factor in pushing people to use private security, but the industry does not address these underlying problems in any way and is not immune to the same problems.<sup>12</sup> There are risks that the industry can be infiltrated by criminal elements and corruption. The Private Security

Industry Regulation Authority (PSIRA) itself has acknowledged that illegal firearms and inadequate vetting of applicants for criminal records are problems with the industry.<sup>13</sup>

### ***3.4 Provides services SAPS should provide***

In order to implement fully the democratic policing reforms envisioned with the drafting of the Constitution, police visibility is needed. Private security officers currently come closer than SAPS to filling the community-policing role by maintaining a presence in specific locations where they can become acquainted with the community and environment.<sup>14</sup> Meanwhile, it has been suggested that the police are not particularly interested or concerned with patrolling areas where the private security industry already operates. The private security industry does practically everything the police are mandated to do, as long as it does not require powers of search, seizure or arrest.<sup>15</sup> Some have justified this by claiming the police have a duty to enforce the law and react to crime, but because of limited resources they cannot also be expected to prevent crime. According to this logic, crime prevention then falls to the private security industry.

Redefining the role of the police in this way is unacceptable. We should not demand only high numbers of arrests and conviction rates, but much less crime. Many services offered by the private security industry are ones the State is supposed to provide, and the Constitution clearly states that “the objects of the police service are to prevent, combat and investigate crime...”.

The private security industry is not a replacement for SAPS. At most, its role is to form partnerships with the police or to assist police in specific, limited circumstances and only with proper training and respect for human rights. The fact that the industry is capable of providing a sense of security for clients benefits the government because it allows it to abrogate its duty. Further, there is a risk that SAPS could become reliant on the industry, and lose its ability to carry out its duties itself, leading to a weakened state and possibly even a security vacuum.<sup>16</sup> The private security industry in South Africa is established and thriving and this is unlikely to change. But while it is tempting to take advantage of it as a resource to prevent crime, it is important not to become dependent on it.

## **4. The Private Security Industry Regulatory Authority**

Regulation of the private security industry is essential because it has been trusted with a great deal of power and a great amount of work. Self-regulation and consumer regulation certainly have important roles to play, but they will not suffice; state regulation is also necessary. At least on paper, the industry is more regulated here than in most countries. The Private Security Industry Regulatory Authority exists to ensure that the industry serves the public, national and industry interests, with the public interest taking priority. Regulation efforts require that any company providing security services for pay must get approval from PSIRA in order to operate lawfully. PSIRA has the power to suspend companies which do not comply with its requirements around registration, codes of conduct, guaranteeing employee rights and meeting minimum training standards. However, it is unclear how well these principles have been translated into strict regulation.

PSIRA has only a vague mandate to promote the public interest, without clearly defined standards of how the public interest should be judged. In fact, much of the legislation that set up PSIRA is unclear about how the agency should carry out its work. One important issue is that PSIRA is not doing enough to ensure that the industry does not use violence unnecessarily. While a code of conduct exists on paper, it is unclear how strictly it is enforced and there is reason to believe it is not given proper priority in regulatory efforts. Cases of abuse are often not adequately tracked. There are statistics about the number of improper conduct cases and criminal cases opened against private security operators each year, but very little data about why these cases were opened. There are no records kept by PSIRA or SAPS singling out cases of death and injury that result for private security industry firearms.<sup>17</sup> Further, very few cases of misconduct are successfully prosecuted.

It is unclear if private security officers are adequately trained. There is concern that some receive less training than the police, especially in many of the smaller companies with fewer resources. Inadequate training, combined with not having powers of arrest, can leave officers more likely to engage in violence because they have fewer alternatives.<sup>18</sup> It is difficult to determine how well PSIRA implements the

requirements they have set forth for the industry. The inspection process needs to be standardized and more rigorous in order for PSIRA to fulfill its mandate.<sup>19</sup>

PSIRA has not yet proven it is a competent agency. It has a significant backlog of cases and a pattern of undisciplined spending. The Portfolio Committee on Police has repeatedly criticized PSIRA for not providing adequate information in its reports. Given these problems, it is clear that improvements need to be made in the regulatory body.

## 5. The Private Security Industry Regulation Amendment Bill

The current Bill's main objects are to:

- Regulate foreign ownership of private security companies
- Strengthen partnerships with SAPS
- Provide State funding for PSIRA
- Further limit anyone with a criminal record from joining the industry
- Improve regulation of:
  - Firearms in the industry
  - Private security officers operating outside South Africa
  - Inactive or noncompliant companies and officers

The provision to enforce the most controversial of these goals, regulating foreign ownership, has already been withdrawn from the Bill because of inadequate research into the issue, especially around SA's obligations under international trade treaties.<sup>20</sup> For the rest, the Bill does have the potential to strengthen PSIRA and to address the current gaps in regulating the private security industry. However, much of it needs more clarification or research before the proposed changes can actually be implemented. As it stands, the amendments are vague and the

Portfolio Committee on Police is unable to move forward and create stricter regulatory mechanisms until Parliament resumes, when hopefully these more technical issues will have been researched and addressed.

## 6. Conclusion

South Africa's private security industry has been growing for decades. While the industry may provide its clients with a feeling of security, there are risks of relying on it for public safety. Even though this is widely acknowledged, there are no indications that the industry will shrink anytime soon. Therefore, it is necessary to strengthen our regulation of the industry. PSIRA has the potential to become a strong regulator that keeps the industry in check, but it does not play that role yet. More resources in the form of additional funding and stronger legislation may help strengthen PSIRA, but the current Private Security Industry Regulatory Amendment Bill still does not provide an adequate framework to close all the regulatory gaps. Nevertheless, it is important to remember that even a well-regulated private security industry cannot be a replacement for a good police system. South Africans must also hold SAPS accountable for fulfilling its duty to serve and protect the public and uphold the rule of law.

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<sup>1</sup> Jenny Irish, "Policing for Profit: The Future of South Africa's Private Security Industry," ed. Martin Schönteich *Institute of Security Studies Monograph Series Issue 39* (1999); Anthony Minnaar and Duxita Mistry, "Outsourcing and the South African Police Service" in *Private Muscle: Outsourcing the Provision of Criminal Justice Services*, (Institute of Security Studies Monograph No. 93, 2004): 38-54.

<sup>2</sup> Otto Argueta, "Private Security in Guatemala: The Pathway to Its Proliferation" *GIGA Research Unit: Institute of Latin American Studies working paper No. 144* (2010): 30.

<sup>3</sup> Jacklyn Cock, "'Guards and Guns': Towards Privatised Militarism in Post-Apartheid South Africa," *Journal of Southern African Studies* 31, no. 4 (2005): 793-4.

<sup>4</sup> *Ibid.*, 798.

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<sup>5</sup> Thomas Hansen, "Performers of Sovereignty: On the Privatization of Security in Urban South Africa," *Critique of Anthropology* 26, no. 3 (2006): 289.

<sup>6</sup> Cock, "Guards and Guns," 798.

<sup>7</sup> H. McDavid, A. Clayton, and N. Cowell, "The Difference Between the Constabulary Force and the Military: An Analysis of the Differing Roles and Functions in the Context of the Current Security Environment in the Caribbean (The Case of Jamaica)," *Journal of Eastern Caribbean Studies*, 36:3 (2011): 54-55.

<sup>8</sup> Matthew Durlington, "Suburban Fear, Media and Gated Communities in Durban, South Africa," *Home Cultures*, 6: no. 1 (2009): 71-88.

<sup>9</sup> For more information about the history see: Sabelo Gumedze, "Regulating the Private Security Sector in South Africa," *Social Justice* 34, no. 3-4 (2007); Julie Berg, "The Accountability of South Africa's Private Security Industry: Mechanisms of Control and Challenges to Effective Oversight," *Open Society Foundation for South Africa* (2007).

<sup>10</sup> Gumedze, "Regulating the Private Security Sector in South Africa," 199.

<sup>11</sup> Minnaar and Mistry, "Outsourcing and the South African Police Service, 38."

<sup>12</sup> Lindy-Lee Lubbe, "A Competency Model for Security Officers: A Qualitative Design" (Master of Commerce thesis, the University of South Africa, 2010), p 10.

<sup>13</sup> Private Security Industry Regulatory Authority (PSIRA) on Its Turnaround Strategy. (2011, March 3). Presentation to the Portfolio Committee on Police, (National Assembly).

<sup>14</sup> Lubbe, "A Competency Model for Security Officers," 8.

<sup>15</sup> Singh, Anne-Marie. *Policing and Crime Control in Post-Apartheid South Africa*. (Burlington, VT, USA: Ashgate Publishing, 1998), 38.

<sup>16</sup> Raenette Taljaard, "Private and Public Security in South Africa," in *The Private Security Sector in Africa: Country Series*, ed. Sabelo Gumedze. (ISS Monograph Series no. 146, 2008), 77, 80.

<sup>17</sup> Gun Free South Africa (GFSA) Submission on the Private Security Industry Regulation Amendment Bill [B 27—2012]. (2012, November 1). Presentation to the Portfolio Committee on Police, (National Assembly); Natalie Jaynes, "Flying Below the Radar? The armed private security sector in South Africa," *Open Society Foundation for South Africa* (2012).

<sup>18</sup> McDavid, Clayton and Cowell, "The Difference Between the Constabulary Force and the Military," 54-55.

<sup>19</sup> GFSA Submission on the Private Security Industry Regulation Amendment Bill; Jaynes, "Flying Below the Radar."

<sup>20</sup> A later amendment to the bill can still be added to allow this change to occur, but for now the bill will move forward without the provision.

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