Analysis of private security companies compliance to the private security industry’s regulatory framework in Gauteng: a South African case study

Lesiba Sewini Johannes Ngulube (a) Mokata Johannes Nkwana (b) Muzukhona Buthelezi (c)*

(a,b,c) Department of Criminology and Security Science, School of Criminal Justice, College of Law, University of South Africa

ABSTRACT

This article explores some of the shortcomings of the Private Security Industry Regulatory Authority (PSIRA) in regulating and effecting control over the Private Security Industry (PSI) in South Africa. In South Africa, all Private Security companies must comply with PSIRA by registering as security providers, however this study revealed a non-compliance. This shortcoming is demonstrated by fly-by-night security companies that provide security services at shopping centres and shopping malls particularly in the parking areas who fail to comply with PSIRA in terms of registration. The main aim of this research was to analyse whether the PSCs comply with the regulatory framework as per the Private Security Industry Regulation Act 56 of 2001 in South Africa in Gauteng Province. A qualitative research design was applied to determine whether PSIRA enforces compliance as per regulatory framework and to establish whether the current private security service providers are registered with PSIRA. The population of the study involved security managers and owners of the private security companies in South Africa. The findings revealed that there is non-compliance to PSIRA by Security providers. It is recommended that the regulator be capacitated with resources to improve its compliance.

Introduction

South Africa comprises of the largest number of private security companies (PSCs) that renders security services in the African continent (Berg & Howell, 2017). Kole and Masiloane (2017) indicated that the demand for private security service drives the mushrooming of PSCs. In addition, the private security industry has a large workforce than that of the South African Police Service (Kole & Masiloane 2017). The violent and criminal nature that prevails in many societies worldwide drives the ever-increasing citizenry’s mistrust of the public police, which further exacerbates the continuous surge for demand of private security service (Houghton, Smith, & Berndtsson 2020).

Moreover, the population growth is outgrowing the economic output, and it creates disproportionate burden on the economic infrastructure which encourages economic competition that overburdens the State’s ability to fight crime (Maphanga, 2019; De Kadt, Parker, & Culwick, 2018).

This is evident in the 2021 crime statistics, which revealed Gauteng crime rate as the highest in the land (SAPS, 2021). The South African Police challenge such as limited budget and lack of resources are the factors that prevent the services of SAPS to be effective in preventing crime (Evans 2017). In South Africa, the first form of regulating private security was the enactment of the Security Officers Act of 1987, which was aimed at professionalising the PSI.

* Corresponding author. ORCID ID: 0000-0002-9419-8470

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http://doi.org/10.20525/ijrbs.v13i4.3280
The various amendments to the original regulation influenced by the political dispensation of the day, culminated in the ratification of the Private Security Industry Regulation Act 56 of 200, that purports to regulate the functioning of the PSI in South Africa (Berg, 2017). This effectively means that regulatory authority exercise control over the practice of private service in the public and national interest, thereby, among others, ensuring compliance with existing legislation through monitoring and investigation (South Africa).

The following research questions were pursued in this study:

i. What are the requirements of the Private Security Companies to comply with the private security regulatory framework and are they in compliance?
ii. What are the negative impacts of Private Security Companies non-compliance?
iii. What are the measures taken by the regulator to enforce compliance?
iv. What are the sanctions for non-complying Private Security Companies?
v. How prevalent is non-compliance to private security regulations by Private Security Companies in Gauteng, South Africa?

Literature Review

Quintessentially, PSIRA is mandated to execute the Private Security Industry Regulation Act 56 of 200 by conducting ongoing audits or investigations on the conduct of rendering security services dealing with evasion, abuse or violation of the procedures and the principle as contained in the Act (South Africa, 2001).

PSIRA as the regulator, it enforces the regulations by issuing fines, publishing defaulting companies and initiating criminal prosecutions against the perpetrators (South Africa, 2001). The key requirements for PSCs and operators are to register or obtain licences from PSIRA to legally provide private security service. According to the Private Security Industry Regulation Act 56 of 200, it is a criminal offence to render a security service without being registered with the regulatory authority ((South Africa, 2001). This therefore raise the question whether PSIRA is succeeding in its mandate of exercising control over the Private Security Industry (PSI).

Govender and Govender (2020) argue that some PSCs do not comply with the Private Security Industry Regulation Act 56 of 200. The researcher embarked on this research to ascertain the veracity of non-compliance if indeed it is the case.

The continuous changing PSI landscape has attracted the attention of many scholars, with their focus pinned on the industry’s regulations, most notably Pillay (2020), Gumedze (2020) and Scheerlinck, Buts, Cools, and Renier (2020). Pillay (2020) scrutinised the growth and regulation of the PSI in South Africa and India. Likewise, Gumedze (2020) provides an in-depth analysis of private security regulations in the Southern African region. Scheerlinck, et al (2020) tackle the impact of regulation on the survival chances of newly established private security service providers. Kim and Prensler (2016) investigated the rationale, nature and effectiveness of the PSI’s regulatory framework in South Wales. They unpack the evolution and the reason for specific regulation change in a given time in South Wales. This is coordinated with what transpired in South Africa with the changing political landscape translating into changes in the PSI posture.

Gumedze (2020) drifts away from regulation while Dworzecki (2018) unzips the role and place of PSCs, and what they offer to the Slovakinians in the Internal Security System. In contrast Gumedze evaluates the potential public and private policing collaboration in South Africa. Whereas PSI regulation have enjoyed attention as highlighted above, its intended goal has not been explored. Compliance with PSI regulation have not been scrutinised. Although PSI regulation is acclaimed to be the answer to the industry’s reputation, legitimacy and professionalism, it is even more important to uncover whether it is reaching its intended goal, which is compliance. This study attempted to lay bare the industry’s actors, particularly the PSCs, compliance to the regulatory framework.

Theoretical Framework

This study draws on the The Rational Choice Theory, The Bounded Theory and Tax compliance theory

The Rational Choice Theory

This theory underpins that an individual rationally makes favourable or feasibility choice based on preference, considering their constraints in the process (Adhitama, Soediro, Farhan and Kusumawardani 2022). The PSCs rationally make a choice not to register their companies with the regulator if they believe that they would amass profit while unregistered compared to when they are registered. When the company is registered, it is subjected to the regulations that guides the operation of the business. Moreover, the fear to be caught on the wrong side of the law also forms part of rational decision making based on the Rational Choice Theory. An individual chose to break the rules when the benefits of noncompliance are higher, while other people comply with rules when they fear certainty of severe punishment (Kuiper, Chabon, Bruijn, Folmer, Olthuis, Brownlee, Kooistra, Fine, Harrenveld, Lunansky, and Rooij, 2022).

The Bounded Theory

This theory advocates that the decision-making of an individual is influenced by the cognitive abilities he possesses, the availability of information, and the time constraints of making decisions (Adhitama et al, 2022). The crux here is about the behaviour of the decision-maker as opposed to the decision of the decision maker advocated by the Rational Choice Theory (Jones, 1999). For
example, the PSC as a unit of analysis, with the requisite skills and capacity to comply, skilfully avoid compliance due to systems failure or capacity issues or legitimacy of the regulator.

The Tax compliance theory

Nguyen, Pham, Le, Truong, and Tran (2020) point out that tax compliance theory is based on three theoretical models, deterrence, economic and psychological models, and behavioural models. Furthermore, the behavioural models are the most significant of the more traditional models. When crafting strategy to encourage tax compliance, the government not only relies on detection and punishment but also on enforcement and positive rewards (Nguyen et al, 2020).

Research & Methodology

This study attempted to determine whether PSIRA enforces compliance as per regulatory framework and to establish whether the current private security service providers are registered as required by the Private Security Industry Regulation Act 56 of 200. A Qualitative research approach was used in this study on which this article is based.

Research design

For this study the research was based on the data gathered through a schedule of interview questions and documentary study. These two data collection methods were used to obtain information for this study. Interviews were structured in such a way that the responded field at ease and provided appropriate information to the researchers.

Population of the study

The target population of the study drew from the security managers, security company owners and PSIRA inspectors – as they all share a common set of traits (Gray, 2018; Williamson & Johanson, 2018).

Sampling procedure and techniques

This study was carried out based on the simple random sampling technique, were every member of security companies and PSIRA have an equal opportunity of being selected to participate in this study. Random sampling means that every item in the sample has a chance of being selected as a sample, since the population was randomly selected (Teherdoost, 2016). Probability and non-probability sampling were used in this study. According to Strydom and Delport (2011), in non-probability sampling the odds of selecting a particular individual are not known because the researcher does not know the population size or the number of the population. Conversely, in probability sampling, all units of analysis have an equal chance of being selected into the study.

It was important for the researcher to create the opportunity for variables to be inclusive in the study to avoid some imbalances. The simple random sampling technique was used to randomly select five State Owned Entities (SOEs) in Gauteng province that utilise security services (targeted population). This was done by placing names of the SOEs in one bag and randomly selected four SOEs. Those five SOEs are as follows: Transnet, South African State Agency, South African Revenue Services, State Information Technology Agency, and Private Security Industry Regulatory Authority. According to Mistry, Minnaar, Patel and Rustin (2003), purposive sampling involves using experts to select samples for a specific purpose. The researcher used purposive sampling to identify and purposively interview specialists, experts and officials with experience in the security services. The strategy was to interview the identified security managers, security company owners and PSIRA inspectors systematically until a target was reached.

Instrumentation

Two qualitative instruments were used (in-depth interview schedule of questions and documentary study).

Data presentation and analysis

The researcher personally visited the respondents and conducted one-on-one interviews to obtain the information used for this article. This afforded the researcher an opportunity to make probing on some of the questions that were asked during interviews for him to have a clear understanding. Eight in-depth interviews were conducted. In addition, a documentary study was used whereby the researcher had access to the documentary sources such as government publications, official statistics, newspaper and magazines, records of meetings letter, memos and diaries.

Methods of data analysis

The thematic analysis method was used by the researcher to analyse the data collected for this study. The thematic analytical technique was used to identify, analyse, and interpret patterns of meanings in qualitative data. The in-depth interviews from participants were digitally recorded and responses were transcribed verbatim by the first author. A second- coder (Second author) checked all the transcriptions. Discrepancies were noted, discussed between the coders and revised where necessary, resulting in a 99 percent inter-coder agreement. Thereafter both authors (the first, the second and the third author) worked together to identify the various types of barriers described by participants through inductive thematic analysis coding process (Braun & Clarke, 2006).
Analysis and Findings

This section focuses on the analysis and presentation of the data collected through face to face interviews.

Table 1: Biographical data

<table>
<thead>
<tr>
<th>Participants</th>
<th>Qualification</th>
<th>Experience</th>
<th>Gender</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>b</td>
<td>c</td>
<td>e</td>
</tr>
<tr>
<td>P1</td>
<td>Matric</td>
<td>30 years</td>
<td>Male</td>
</tr>
<tr>
<td>P2</td>
<td>B Tech (Forensic Investigation)</td>
<td>11 years</td>
<td>Male</td>
</tr>
<tr>
<td>P3</td>
<td>Bachelor of Commerce</td>
<td>15 years</td>
<td>Female</td>
</tr>
<tr>
<td>P4</td>
<td>BSc (Geology)</td>
<td>6 years</td>
<td>Male</td>
</tr>
<tr>
<td>P5</td>
<td>LLB</td>
<td>26 years</td>
<td>Male</td>
</tr>
<tr>
<td>P6</td>
<td>Matric</td>
<td>32 years</td>
<td>Male</td>
</tr>
<tr>
<td>P7</td>
<td>National Diploma: Security Management</td>
<td>30 years</td>
<td>Male</td>
</tr>
<tr>
<td>P8</td>
<td>LLB &amp; Hon in BA Criminology</td>
<td>10 years</td>
<td>Male</td>
</tr>
</tbody>
</table>

The participants’ qualifications, years of service, and age was taken into consideration because they reflect participants’ experience, skills, expertise and maturity. The genders of participants are reflected although only one female participant could be sourced and rest are males. It is evident that the security industry continues to be dominated by the male gender. The total composition of participants consists of eight participants from various targeted institutions or companies. The participants were selected because of their intimate knowledge and experience of the subject matter. The researcher targeted 20 participants for interview and only eight accepted the invitation.

The above figure 1 illustrates crime rate in Gauteng in comparison with the rest of the country. The study revealed that Gauteng is the crime capital of South Africa. Contact related crimes, which refers to crime that occurs to the closest proximity of the victim, is high in Gauteng. These crimes include crimes such as arson, malicious damage to property, etc. These types of crimes cannot be easily dealt with by SAPS because of capacity issues.

Other similar types of crime such as burglary, theft of motor vehicles, stock-theft are rife country-wide, however Gauteng’s share is visibly high in these crimes too. Crime rate creates a breeding ground for mushrooming private security businesses. In competing for clients with well-established and compliant PSCs, unscrupulous PSCs operate illegally circumventing regulations to maximise profit. These place the consumers of private security at risk.
The above table illustrates the research questions of this research study, the research objective and the research questions posed to the participants to solicit answers that provided answers to the research questions. To achieve the research objectives, the researcher solicited participants’ lived experience by posing interview question. The first question posed to participants was to explain their understanding of what constitutes a PSC. This was to understand the expected requirements PSC needs to meet to comply with the regulatory framework. The interview question aims to establish an understanding of the elements that compose a PSC. Therefore, the research objectives are links to the research question of determining the requirement for PSCs to comply with the private security regulatory framework.

The private security business

Interview question: What constitutes a private security company?

Participants response: All the participants aver that a PSC is a business venture that renders a private security business for remuneration or profit. One participant pointed out that a PSC is either registered with PSIRA or it might be unregistered. As long as the private security business provides a security service to the consumer, it constitutes a PSC. The qualifying criteria is for a PSC is an entity selling security service to the consumer for remuneration or profit.

Interview question: What does PSCs do?

Participants response: Participants are all in agreement that the PSC exists primarily to protect life and property. One participant adds that PSCs deploys security risk mitigating measures in execution of their duties. Participant 7 denotes that the risk mitigating factor encompasses varied security measure, which may include “the deployment of armed or unarmed guards, technical security systems, implementation of policies and procedures to safeguard documents”.

The participants concur that the PSCs are responsible for many roles including, guarding, access control, patrols, armed responds, cash in transit, close protection, installation and maintenance of alarm system. Whereas Participant 1 highlights the addition of game rangers and anti-pouching into the PSCs fold, Participant 3 points to the usage of animals (horses, dogs, etc), vehicle tracking and electronic security providers as important addition to the PSC fold.

Participants 1 and 3 denote that PSCs exists to fill the void left by the failing police force in ensuring safety and security in the communities. As Participant 1 alludes, “there is a societal mistrust of public police due to their failure to take control of the high crime level”. Participant 3 is quoted saying that “the police are ill-equipped and are failing to secure the citizens”. The participants concur that those who afford, hires PSCs to provide protection in their homes and businesses.

When citizens opt for private security, the industry flourishes. Participant 4 asserts that private security business is lucrative, and it is preferred by politically connected business people. The participant points that this is the case because the politically connected individuals easily secure security contracts. There are many opportunities for tendering in the government and those that are connected have bigger chances of profiting from this lucrative business. Conversely, Participant 8 points that the influx of unscrupulous PSCs into the private security market has saturated the industry and it is no longer lucrative. This assertion is backed by Participant 1.

<table>
<thead>
<tr>
<th>Research questions</th>
<th>Research objectives</th>
<th>Research interview questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>What are the requirements for PSCs to comply with the private security regulatory framework and are they in compliance?</td>
<td>To establish whether the current private security service providers are registered with PSIRA.</td>
<td>What constitute a private security company according to you?</td>
</tr>
<tr>
<td>What are the negative impacts of PSCs non-compliance?</td>
<td>To determine whether PSIRA conducts inspections on all current private security service providers to ascertain compliance.</td>
<td>How are non-complying PSCs policed or identified?</td>
</tr>
<tr>
<td>What are the measures taken by the Regulator to enforce compliance?</td>
<td>To determine whether PSIRA enforces compliance as per regulatory framework.</td>
<td>What is the role of Private Security Industry Regulatory Authority (PSIRA)?</td>
</tr>
<tr>
<td>What are the sanctions for non-complying PSC?</td>
<td>To establish the action taken on non-complying private security service providers.</td>
<td>Are the measures crafted to sanction the non-complying PSCs effective?</td>
</tr>
<tr>
<td>How prevalent is non-compliance to PSI’s regulations by PSCs in Gauteng, South Africa?</td>
<td>To ascertain the magnitude of non-compliance in Gauteng</td>
<td>What is the magnitude of non-compliance?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>How does the magnitude of non-compliance look like for professionalising the PSI?</td>
</tr>
</tbody>
</table>

The participants concur that those who afford, hires PSCs to provide protection in their homes and businesses. When citizens opt for private security, the industry flourishes. Participant 4 asserts that private security business is lucrative, and it is preferred by politically connected business people. The participant points that this is the case because the politically connected individuals easily secure security contracts. There are many opportunities for tendering in the government and those that are connected have bigger chances of profiting from this lucrative business. Conversely, Participant 8 points that the influx of unscrupulous PSCs into the private security market has saturated the industry and it is no longer lucrative. This assertion is backed by Participant 1.
Participant 8 avers that the industry is riddled with “fly-by-night” companies who take their chances of operating without complying with the industry regulations. Participant 1 is quoted saying “these companies operate illegally and flout all the rules to maximise profit”. As Participant 2 is quoted, “some individuals establish PSCs for mischievous motives of acquiring firearms to commit crimes, which may give rise to organise crime”.

Although the PSI is seen as lowly by society, Participant 8 believes that the industry is characterised by skilled personnel. Many retired, former police and military forces join the PSI, which in turn benefit the PSI in terms of skills transfer from the experienced and knowledgeable personnel. All participants concur that the PSI contributes to a large-scale employment. Participant 5 alluded that some people join the PSI to combat, prevent and help in stopping crime. To some, such as Participant 7, views private security service as passion, and to others such as Participant 3 perceive it as a calling.

For those aspiring to establish a security business, they should meet the following criteria:

- i. 18 years of age,
- ii. fit and proper (mentally sound),
- iii. have a Grade B (Supervisory level) or academic qualification or recognition of prior learning (RPL) to avoid grades,
- iv. RSA citizen or permanent residents, with no criminal record and the directors be registered with PSIRA.
- v. have a letter of Good Standing from PSIRA

Participant 2 and 7 state that Section 21 of the PSIRA Act requires that all security providers, either business or individuals rendering security service should register with PSIRA. Participant 4 views the process of registering a security business with PSIRA as tedious but Participant 1, 4 and 5 see it as a painless, where one just mere register with PSIRA and boom the company is in business. However, as one participant concedes, “it is easy only on paper”. Participant 1 points that “PSIRA conducts thorough checks on the Director(s) for criminal history, identity documents verification with Department of Home Affairs (DoH), check infrastructure premises for telephone lines, lockable cabinets, etc”.

The role of PSIRA

Interview question: How are non-complying PSCs policed or identified?

Participants response: Many of the participants assert that PSIRA conducts random inspection to uncover non-complying PSCs. PSIRA’s law enforcement division conducts inspections and enforce compliance through sanctions against non-complying PSCs. Most participants point that PSIRA relies on tip-offs from disgruntled Security Officers and PSCs’ competitors. Participant 1 avers that “labour related issues are in most cases the triggers, and when an employer fails to pay an employee, he/she reports the employer to PSIRA, or through other avenues, and that is when the non-complying PSC is exposed”.

Three participants said that informants are primary sources of identifying non-complying companies. One participant clarifies that the “Security Officers phone-in, to indicate that they are under-paid”. The participant takes the complaint and refer it to the Regulator. The participant further mentions that he “scans social media, follow chat groups, and check the if the companies on social media or chart groups are registered”. The participant further points that he “conducts checks with the Regulator not only for registration/licencing, but also for to confirm medical aid membership and pension fund membership”.

Another participant points that in training environment, the trainees only uncover when they attempt to register their certificate with PSIRA that their service providers were not registered. Some service providers issue fraudulent certificates that the consumers pick-up when they are vetting prospective employees for contracts.

Another signal that a company is non-compliant is when its staff component remains fixed over an extended period (without increasing or decreasing in officers’ numbers), as one participant confirmed. This is indicative that the company is probably flouting regulations. Participant asserts that compliance should not be compromised. A company is either compliant or non-compliant.

Most of the participants agree that PSIRA makes a concerted effort to ensure that those who have the knowledge and the capacity are allowed to open and operate a security business. The consumers on the other hand, have a responsibility to ensure that they hire only PSCs that are registered with PSIRA and have a track record. One participant cautions, however, that this creates a disproportionate advantage that favour big security companies who have all the infrastructure compared to the up and coming or emerging security businesses.

One participant indicates that PSIRA is empowered through its Code of Conduct, to disqualify, fine, or suspend companies/directors when they are found to be in breach of the regulations. PSIRA inspectors do not require warrants for surprise inspections. Should a PSC be found guilty during the improper code of conduct enquiry, the presiding officer can impose a warning, a fine, suspension, withdrawal, suspended sentence, etc. Two participants emphasise that an investigation may result in the findings that warrant criminal investigations. This needs further assistance from the National Prosecuting Authority (NPA) as well as Department of Justice (DoJ).
As the PSI continues to grow, more security officers and new security businesses are registered. The high level of crime drives the demand for private security. This phenomenon is exacerbated by advancing technology and an increase in the usage of cyberspace. Many businesses operating in the cyberspace circumvent the registration and compliance process (Document 2). According to PSIRA records, the PSI in South Africa consists of over 2.5 million registered officers, with only half a million actively employed. There are over 10,000 actively registered security businesses. The number of security businesses increased by 45% since 2010 (Document 2).

COVID-19 has necessitated the Authority to find new ways of doing things. During the COVID-19 restrictions, bulk renewal of licences was instituted, online bookings became the order of the day – reducing queuing, and mobile platforms that increased interaction with clients were created (Document 2).

One participant points that PSIRA has increased its footprint across the country compared to the early days of SOB. While the growth of PSI is commendable in terms of creating many job opportunities among others, there are still those who tarnish the image of the industry. Participant 8 asserts that there are instances where PSCs hired foreign nationals in contravention of the provision in the PSIRA Act. The participant recalls: “In the past few years, there were peculiar incidents that have been occurring at client’s premises whereby security officers are deployed by PSCs to safeguard assets and facilities (buildings), an investigation revealed that some of these (incidence) were committed by foreign nationals within the PSI who fraudulently attained South African documents”. The magnitude of this occurrence is not quantified – it is unknown.

The magnitude of PSCs non-compliance

Interview question: What is the magnitude of non-compliance?

It is an open secret that PSIRA does not have total count of security businesses and practitioners operating out there. Forty percent (40%) of participants concede that many security actors do not know of the existence of PSIRA. They only come to know about it when they want to start a company or they are interested in becoming security officers.

Participant 1 points that there are about 10,400 new companies entering the PSI market monthly nationwide of which 20% follow the rule of the law in every respect and the rest are non-compliant. The participant says that companies underpay their staff using disguised employment contracts – to pay less.

The participants were asked to estimate the magnitude of PSCs’ non-compliance to PSI regulatory framework. The interview question ties with the research of determining how prevalent non-compliance is to private security regulations by PSCs in Gauteng, South Africa. The research objective linked to this research question is to determine whether PSIRA conducts inspection on all current private security services to ascertain compliance.

<table>
<thead>
<tr>
<th>Participants</th>
<th>Estimates of non-compliance percentage</th>
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<tbody>
<tr>
<td>2 x participants</td>
<td>80%</td>
</tr>
<tr>
<td>1 x participant</td>
<td>66%</td>
</tr>
<tr>
<td>1 x participant</td>
<td>20%</td>
</tr>
<tr>
<td>1 x participant</td>
<td>10%</td>
</tr>
<tr>
<td>1 x participant</td>
<td>2.3%</td>
</tr>
<tr>
<td>2 x participants</td>
<td>Non-committal</td>
</tr>
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</table>

Table 3: Breakdown of participants estimates: magnitude of non-compliance

There are conflicting views amongst participants about the magnitude of PSC’s non-compliance with the PSI regulatory framework, particularly the percentage of registration of security businesses in Gauteng. Of the total number of participants, which is eight, two estimates that the PSCs non-compliance to the regulations is up to 80% and higher. Another participant estimates non-compliance to be at 66%. The other participant estimates non-compliance as low as 20% and some less. Two participants are non-committal. It is clear as day light that there is no accurate estimation of the level of non-compliance. Although PSIRA has an estimated number of registered PSCs, many are dormant, others cannot keep up with the annual fees and are therefore de-registered, others are not known – have never registered with PSIRA, and others operate under fictitious names. Some participants attest that the annual fees are but one of the driving forces behind PSCs keeping up with registration status. The companies are required to pay annual fees, and levies for all their employees over a term, even though some would be active for only a short period, for example working under a three months contract. One participant points that although PSIRA conducts compliance inspections to ensure that PSCs adhere to the legislative prescripts. Some government departments make it mandatory for the security service providers to be registered with PSIRA prior to being awarded tenders to safeguard their premises, which enhances the compliance culture within the PSI. According to PSIRA’s recent annual report, the Compliance and Enforcement arm of PSIRA inspected 6,725 PSCs in 2020-21 financial years in comparison with 7,155 in the 2019-20 financial year. The fewer inspection might have been influenced by the restriction related to COVID-19. This has created an opportunity for the onset of compliance self-assessment, which resulted in 40% of private security business utilising the tool. Above the PSIRA’s Law Enforcement branch’s responsibility to enforce compliance, the consumers are also obliged to exercise reasonable care when consuming security businesses. According to Section 38(3)(g) of the Act, it is an
offence when consumer knowingly or without exercise or reasonable care contracts for rendering of security service contrary to the provision of the Act, which implies that the consumer contract with non-compliant security company. One participant sums it up that inspections, investigations, operations with critical stakeholders such as the SAPS, Department of Employment and Labour, immigrations, education, awareness, prosecuting non-compliant security service providers, etc are mechanisms of effecting compliance.

The future of PSI professionalism

Interview question: How does the future look like for professionalising the PSI

While some participants believe that PSIRA is failing to effect control over the PSI, others see the Regulator as a model. PSIRA is a leader in the African continent, and it is instrumental in shaping the future of the industry. South Africa has one of the best regulatory legislation in the world. Some countries have decided to adopt its blueprint. The digital platform created by PSIRA to servicing its clientele would improve efficiency. There are subject matter experts called on to address various sectors within the PSI. Participant 8 acknowledged that PSIRA is improving its efficiency and this bode well for the industry for the future. However, technology would lead to job losses, but the industry cannot remain stagnant. The industry remains the highest employer in the country and it appears that the odds would be the same for many years to come. The emergence of new technology in the PSI is changing the profile of the industry, which in-turn overcomes the negative perception that characterises the industry. The continued non-compliance to the regulations by some security businesses affects the image and professional reputation of the Authority and the industry at large. Therefore, the Law Enforcement Strategy of PSIRA has initiated industry compliant self-assessment to encourage security companies’ compliance to the regulations. As one participant concludes, the PSI has grown and it continues to grow. There are many innovative ideas implemented. Lately, there are online applications for registrations, academic qualifications offered at institutions of higher learning. Service providers can now do self-assessment before inspectors arrive, and the industry is being noticed through awareness initiative/campaigns.

Table 4: Comparative analysis of security practices on the regulation of security services: South African perspective and international perspective

<table>
<thead>
<tr>
<th>South African perspective</th>
<th>International perspective</th>
</tr>
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<tbody>
<tr>
<td>Private Security Companies (PSCs) are requested to register with the Private Security Industry Regulatory Authority as a compliance requirement becoming active in the industry. This implies that the Act may set reasonable and appropriate registration requirements that must be satisfied by applicant security service providers. The basic object is to achieve a trustworthy, legitimate and competent private security industry which has the effect that not all applicants will be able to secure legitimate entry to the industry and that the admission to or exclusion from the industry is based on proper grounds.</td>
<td>Private Security Companies (PSCs) are requested to join the International Code of Conduct for Private Security Service Providers’ Association (ICoCA) as member companies if they commit to operating consistently with the principles of the code and meet the other requirements for their participation.</td>
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<td>The Private Security Industry Regulatory Authority (PSiRA) was established in terms of Section 2 of the Private Security Industry Regulation Act (56 of 2001) in 2002, hereinafter referred to as the “Act”. The strategic mandate of PSiRA originates from the Act and the regulations issued in terms thereof. In a nutshell, the primary objectives of PSiRA are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and in the interest of the private security industry itself.</td>
<td>The International Code of Conduct for Private Security Service Providers (ICoC) is aimed directly at private security companies. Its members ‘commit to the responsible provision of Security Services so as to support the rule of law, respect the human rights/humanitarian law, and protect the interests of their clients.’ The ICoC applies primarily to security services delivered in complex environments. Nevertheless, the standards and recommendations are also valid other contexts.</td>
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<td>The Private Security Industry Regulation Act 56 of 2001 intends to provide for the regulation of the private security industry; for that purpose, to establish a regulatory authority; and to provide for matters connected therewith.</td>
<td>The purpose of this Code is to set forth a commonly agreed set of principles for Private Security Companies and to establish a foundation to translate those principles into related standards as well as governance and oversight mechanisms.</td>
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<td>Member Companies and Affiliate Companies undertake to be transparent regarding their progress towards implementing the Code’s principles and the standards derived from the Code.</td>
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Discussion and Interpretations

The study underpins the notion that although PSIRA is entrusted with the mandate of effecting control over the exercise of security practice, the task is mammoth and somehow elusive. The Authority lacks the capacity to completely bar/root-out/eliminate unscrupulous PSCs. PSCs are the culprits and this taints the image of the industry.
Whereas the PSI is driven by ever surging demand for security services, it is also infested with non-complying fly-by-night operating some with mischievous intentions. Many flouting regulations to maximise profit whilst putting consumers at risk.

Although some participants conceded that the industry is lucrative, they conclude that it favours only the politically connected. Whilst the level of crime is skyrocketing in Gauteng, and the society’s trust in the public police is dwindling by day, only those who can afford, source private security to protect their lives, properties and businesses. In competition for clients, PSCs lowers their fees and sacrifices quality provision of service. This eventually propels the PSC to under-pays their staff, which create an opportunity for fly-by-nights to flourish, flouting all sorts of regulations.

PSIRA is empowered to inspect non-complying PSC. However, PSIRA has no capacity to track all PSCs in the province. The Regulator relies on informants and complaints over and above inspections to identify and enforce compliance. They also rely on the consumers to do the right things before purchasing security service, by vetting the prospective supplier on whether they are registered with PSIRA or not.

This study has proven that the magnitude of PSCs compliance or non-compliance to the PSI’s regulatory framework is elusive. There are many factors that points to this. The total composition of the PSI personnel is estimated at over 2,5 million registered officers and 10 000 registered businesses. Of the 2.5 million registered officers, only half is active. It is unclear whether the inactive half is looking for employment, working elsewhere, operating illegally (without paying annual fees), etc. The participants gave divergence response to the question of the magnitude of non-compliance. Some believes that non-compliance is as high as 80% and some believes it is as low as 2/3 percent. Some participant could not even commit on a number.

The continued non-compliance by many PSCs affects the image and professional reputation of the industry. Nevertheless, PSIRA continues to upgrade and improve on its processes to enhance compliance culture. The Authority should adopt the Digital Transformation Strategy of 2020-2025, which aims to transform PSIRA to be effective and efficient in customer service in line with the Fourth Industrial Revolution.

**Conclusion**

The research succeeded to achieve the purpose intended to, which was to examine compliance of the private security industry to regulatory framework in the research area, that is, Gauteng province of South Africa. Among the findings made, the research established that most security companies do not comply with the Private Security Industry Regulation Act 56 of 2001. Some of these private security companies are not even registered with PSIRA as the provision of the Act.

Based on this conclusion, the following recommendations are suggested:

i. **PSC Should join employer unions so that they could be represented and benefit in earning credibility as well as legitimacy.** Employer unions encourage their members to comply with the regulatory and labour related legislations. They should also share information with peers. Sharing information among PSCs could assist in whistle blowing and assisting where necessary with issues of compliance. In addition, they should ensure that all employees, including security officers, comply with all regulations, labour legislations and other State instituted legislations. Section 20 of the Private Security Industry Regulation Act (Act No 56 of 2001) determines registration as a security service provider as prerequisite for being active in the private security industry. In terms of this Section no person, except a Security Service contemplated in Section 199 of the Constitution of the Republic of South Africa may in any manner render a security service for remuneration, reward, fee or benefit, unless such a person is registered as a security service provider in terms of the Act.

ii. **The Regulator (PSIRA) should increase the capacity of their inspectorate division.** This should include the number of inspectors and the budget thereof. In addition, the regulator should source some budget from the State, the Ministry of Police. Moreover, it must improve collaboration with other intelligence security services. The regulator should increase the intensity of their awareness campaign. Lastly, in order to ensure that only legitimate security service providers are used, the Authority should submit appropriate information to the relevant stakeholders pertaining to the security service providers.

**Acknowledgement**

**Author Contributions:** Conceptualization, Methodology, Data Collection, Formal Analysis, Writing—Original Draft Preparation, Writing—Review And Editing by authors with equal participation. All authors have read and agreed to the published the final version of the manuscript.

**Institutional Review Board Statement:** Ethical review and approval were obtained for this study.

**Data Availability Statement:** The data presented in this study are available on request from the corresponding author. The data are not publicly available due to privacy.

**Conflicts of Interest:** The authors declare no conflict of interest.
References


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