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How Private Security Sector is Winning its Legitimacy in France?

Private security represents a relatively original challenge for public authorities in France compared with other European countries. But before showing how this is so, we need first to explain why it is a problematic object for the social sciences, and then to define it.

In fact, the private security sector has become the legitimate object of study for the social sciences in most developed countries; but it remains a largely problematic object, for it is often conceived on two palpably different and even antithetical registers, a dichotomy which we must attempt to transcend.

The first register is characterized by economic calculation. Private security is regarded as a market sector (governed by business law), which responds first and foremost to the law of supply and demand. The determining paradigm of this register tends to regard security as a commodity (Savas, 1982) rather than as a right, and inevitably entails a number of ideological consequences that must be assumed (e.g. a fairly negative vision: inequality of populations in the face of security, one security for the rich, another (in)security for the poor. Or a fairly positive vision: a moral mechanism, since the rich would pay for the additional security the State cannot afford to provide, etc.).

The second is characterized by more normative reasoning. Because of the very nature of the services promoted (prevention, protection from menaces and the disturbances they occasion, which affect everyone), there seems to be a proliferation of centers of regulation (Hoogenboom, Morré, 1988), a multifaceted management of private orders themselves combining to redefine the overall post-industrial order. Not some informal, abstract order, but a new policing order for society. And that is why the object of our study has been largely taken on board by sociologists and criminologists familiar with the concept of private policing rather than that of private security. Their paradigm regards security as a historically acquired right (to the point that it has become a duty of the Welfare State toward its citizens), rather than a commodity.

These two paradigms leave scant room for reflection on the eventual action of public or State authorities in structuring the field of economic activities comprised by the security business. This is all the more visible in France, where political scientists find no trace of a recognizable "public policy" on this subject. An excellent example was provided by a recent French study on representations of security (Gatto, Thoenig, 1992). Not one of the sixty senior civil servants in charge of promoting public safety interviewed by the authors mentions private security as a problem, as an issue or as a challenge. This sector is not felt to be a threat, for example as competition with the State police (unlike municipal police forces). And yet, when the social sciences make it an object in itself, an independent sector of economic or of normative activity (e.g. a "private police"), they often do so in a reductionist vein. In the end, the only way to understand how the private security sector functions is to analyze its varying and diversified, though barely detectable, sources of legitimation.

I will therefore first examine the role played by public authorities as arbiters of certain interests peculiar to this field of activity (part I). After which I will make use of a few examples to discuss the notion, widespread in England and America, of the privatization of policing tasks presumed to underlie the growth of the private-security sector, although it would perhaps be more appropriate to speak of no less important phenomena of publicization of private regulations (part II).

Private security sector can be defined by the following three propositions:

1. It is a service sector providing equipment, personnel and original procedures for protection and risk management in the form of what French professionals call the "chaîne de sécurité" (security chain). This chain is composed of services ensuring the (perimetric and volumetric) protection of specific geographical sites, and of loss prevention services. In the area of protection there are designers, manufacturers, distributors and installers of intruder and fire prevention material (e.g. electronic alarm systems). In the sphere of prevention, there are in-house departments and agencies specializing in three main areas: transportation of money (protection of assets), bodyguards (protection of individuals), and security guards. Among the latter, a distinction must be made among security guards and patrolling (human surveillance of a site); what the French call télé-surveillance (or remote-control surveillance of a site from a central office); a machine receives and analyzes messages sent over the phone line from a customer's premises; and so-called télésécurité (a combination of remote surveillance and on-the-spot private and/or public human response to an alarm).

2. Taken together, the links of this security chain constitute a philosophy of action the guiding principle of which is risk prevention and protection against the losses and damages associated with these risks.
These stem from three types of failure, from things that have been done or left undone: errors, accidents and malice. Private security is concerned essentially with prevention and protection, with the (theoretical) exception of repression. Prevention (by identification of risks, their assessment and quantification) aims to diminish the probability of their actually occurring. Protection aims at finding ways, not to stop the risk from occurring, but to diminish the frequency and above all the consequences of these risks. In the fight against acts of malice, private security emphasizes situational dissuasion (Cusson, 1993); by protecting vulnerable or covered targets (persons, assets, information), it can hope effectively to reduce the opportunities for offending (by dissuading potential offenders before they act) or by making the task harder for the offender.

3. Finally, the private security sector is characterized in principal by a profit orientation (South, 1988) and by adherence to the laws of the market place (supply and demand). With the exception of in-house departments, private security operates on a contractual basis, selling or renting services to a (public or private, collective or individual) client. Expansion in this sector is semi-autonomous. It would be entirely autonomous if, in our societies, the demand for security had been left spontaneously to create the supply. It should be noted that academics have often seen private security as being determined by growing security demands, which in turn flow from two interdependent phenomena: on the one hand, the rise in crime (in particular the unlawful appropriation of property) and, on the other, the crisis of State resources, which, unable to meet the growing demand for protection, forces the public to look to the private sector to satisfy its needs. This analysis seems too summary, however. Were we talking about a liberal State, it would be acceptable, but this is not the case. On the contrary, in a Welfare State, the socializing mechanism of supply and demand in matters of security is solidly buttressed by the insurance sector. Insurance, too, has suffered the structural effects of the economic crisis, and most companies are obliged to think up ways of persuading their own (individual or corporate) clients to protect themselves, while at the same time developing means of verifying and normalizing industrial safety equipment. It can be said that the insurance sector broadly conditions and orients the implementation of "situational prevention" (Ocqueteau, 1993). This is possible because the State delegates to the insurance companies the main pedagogical role of protecting the private property (property, assets and information) of both private individuals and firms.

I - The state, arbiter of varied professional interests

Here, we will be considering the managerial State in the role of third-party arbiter of conflicting interests, which makes laws inciting or prohibiting activities in the area of private security. Three examples:

1. Some time ago a regulation came out concerning companies ensuring the transportation of money (decrease 13/07/1979). When the public authorities dropped the traditional system of police escorts for the armored cars transporting money between businesses and the banks (the system in existence when the flow of money was still limited), they had to oblige armored-car companies to reinforce their measures of security for both their vehicles and their employees. The regulation was demanding, since it went well beyond the normal requirements (armored cars, minimum of three escorting guards, obligation for employees to carry a weapon...). Deprived of police protection, the escorting guards were forced to become more professional, but they also became more vulnerable targets for street aggression. The 1980s saw a general concentration of these companies and a diversification of their activities, which allowed this sector to cope with the new rules of international competition. But, after a series of spectacular hold-ups in which the lives of both guards and passer-by were endangered, the philosophy of the public authorities began to change. New incentive attitudes emerged in the late 80s and early 90s. The question became how to resolve the problem of the so-called "pedestrian phase of the transport of money" and the risks of guards having to shoot back in self-defense, thus further endangering lives. In the short run, public authorities sought to encourage clients (banks, supermarkets...) to equip their premises with double sets of doors to avoid this highly vulnerable phase of the transportation of money. In the long run they felt it more important to promote technical innovations capable of definitively neutralizing the risks of aggression by removing the object of the gangsters' desires (e.g. self-destructing of paper money and demagnetization of credit cards in case of attack, etc.). The Banque de France set the example by contracting with a company that had developed such a procedure.

The history of this regulation effectively illustrates how the initial logic of withdrawing police escort (which at first led the public authorities to require armored-car companies to protect themselves against armed aggression) became, in the long run, a new source of vulnerability for the...
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physical safety of both the escorting guards and the public at large. Today, while public authorities are trying to change the rules of the game, armored-car companies are reticent, and prefer to see their clients invest in security devices, which cost the transport companies nothing. A veritable battle is being waged, with the public authorities as referee. The armored-car companies are trying to persuade them not to proceed too rapidly with these new procedures which could threaten their activities because of their incapacity to adjust in time to the new constraints. The clients (banks, etc.), on the other hand, favor the generalization of these procedures, which they see as safer and less costly. In all likelihood, once the leaders have adapted to the new procedures, a regulation will be made to generalize their use, thus officializing the new game rules for clients and services in this niche.

2. Another, more far-reaching regulation attempts to respond to the concern of civil society and the State police with protecting civil liberties. The 1970s in France saw left-wing lobbying against deviant practices of companies of security and body guards, who acted as veritable private militia on behalf of a body of antiquated employers in social conflicts (Picant, 1980). The prohibitions set out in the law of 12/07/1983 must therefore be read as a direct response to the concern of civil society (Ocqueteau, 1990). The law states that security guards have the same powers as the man in the street and no more; it forbids private security guards to interfere in social conflicts; it forbids private security guards to work on the streets, and in-house departments to keep files on employees. In addition, the 26/09/1986 and 15/10/1986 decrees stipulating the conditions of enforcement (décêret d’application) define the status of security guards: uniforms, equipment, use of dogs, weapons... The originality of the law is its intent to rid the sector of dubious elements (political extremists and ex-convicts, in particular) among both employers and employees. It obliges companies to register with the prefecture, which is responsible for ascertaining the agency’s compliance with the law. Since 1987, the prefecture accepts or rejects candidates on the basis of their court record. A study assessing the effectiveness of these new decrees (Ocqueteau, 1992) provides the material for a preliminary quantification of the companies and their personnel; from the standpoint of quality, it shows that the monitoring has not been in vain: 16% of the agencies received a rap on the knuckles; in certain administrative districts, the personnel rejection rate was between 4 and 8%. Very few agency directors were barred, but the Renseignements Généraux were able to alert the administration to a fraction of directors closely allied with extreme right-wing movements and suggest they be kept under close surveillance as potential partners in subversive operations. But numerous perverse effects of the initial regulation have appeared with time, e.g. the fact that operating licences are granted for an unlimited period. It is difficult for the administration to know if, once licensed, security agencies continue to declare all employees, the turnover rate of which is often high. Furthermore it is difficult for the administration to keep agencies from getting around the law: licencing straw-men with a clean court record; licencing employees as “independent” contractors in order to save on benefit payments (in France: mandatory pension and health-insurance payments), etc. A reform law is now pending which should eliminate the bulk of these effects. But to my mind, until an administrative department specialized in on-site inspection of contractual agencies and in-house departments is created, the clean-up will remain fairly limited. Retrospectively, it becomes particularly apparent that the whole monitoring operation has given the private security sector much more credibility in the eyes of the public; for, if this multifarious sector with its serious internal divisions has been incapable of adopting a professional code of ethics like that of the British Security Industry Association (cf. South, 1988), it still knows how to market its official stamp of approval. It tends to adopt the line that the new regulation has virtually made private security agents auxiliary policemen. And above all, they seek State-approved legitimacy, over and above commercial legitimacy, which is not always so easy to come by. The best proof of this is that some clients, disappointed with private security guards, are now beginning to set up in-house services, even if the cost is higher. As for the French authorities, natural defenders of civil rights, their position is ambiguous: they would like to clean up the private sector, but without infringing on the principle of free trade. Unfortunately, in matters of security, civil rights and free trade do not always go together.

3. A third example of public authorities as arbiters can be seen in the conflict that has been running between the State police and electronic surveillance agencies since 1988. The problem is the irritating and controversial question of so-called "inadvertent" alarms and the alleged laxism of electronic surveillance companies in "confirming alarms". In the course of the 1980s, it became apparent in effect that, in the vast majority of cases (e.g. 90% in Paris), police responded to a "false" alarm. The height of irony was that the police had the impression that they had become an auxiliary of the private agencies, who were not really doing their job of detecting and managing alarms properly. A recent
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decree (26/11/1991) concerning electronic surveillance attempted to settle
the dispute by reversing the implicit former game rules. By imposing a
tax on electronic surveillance companies using a telephone number
assigned them by the administration and without which they cannot
operate legally, and by requiring these companies to confirm the alarm
according to specifications set out in the text, it strongly penalizes errors
or failures. The promulgation of this text put an end to police criticism
while forcing electronic surveillance agencies to improve their
performance for their subscribers. As police, gendarmes or firemen now
know what they are responding to, they are assured of "good pinches"
(Shearing, Stenning, 1982) in their respective area of competence.
Electronic surveillance agencies win on two counts: they gain ideological
credibility (they are virtually recognized as true public services
auxiliaries, since their role as "first on the scene" to ascertain the cause
of the alarm is officially recognized) ; and their economic viability is
enhanced, since, by penalizing weaker or less reliable electronic
surveillance companies, the State precipitates the consequences of the
economic struggle for life.

These three examples show how French public authorities come to
terms with existing practices by rechanneling them to fit either the
interests of powerful corporate clients (ex. 1 : banks, insurance
companies), or those of the police (ex. 3), or those of the public (ex. 2).
But beyond the immediate satisfaction of these different actors, there are
longer-term winners. Indeed each specific regulation in an area of
economic activity draws a dividing line between the powerful, who are
capable of adapting (because they are able to look ahead), and the others,
less well off, who, threatened with more or less imminent disappearance,
must change their practices or find ways of getting around the difficulties.

In matters of private security, French authorities take a more or less
direct hand, not only in the economic moralization of the sector, but in its
ultimate ideological legitimation as well, even if it is in the name of an
arbitration supposed to protect the general interest.

II - "Privatization" of policing missions or "publicization" of private
regulations?

We will now go further and consider the State no longer as a public
power overseeing particular interests, but as an aggregate collective of
public services and establishments. From this standpoint, the State can be
analyzed as an "actor" that enters directly into the fray of economic
competition and takes part in certain processes of privatization of policing
missions or tasks. A priori all western democracies faced with the
challenge of buying and selling security are engaged in such a process
(Conseil de l'Europe, 1990). It should be noted that for the most part this
rhetoric was prominent in the 80s in those countries caught up in the
ultra-liberal enthusiasm of the Reagan-Thatcher era, and was much less in
evidence in France or West Germany, both more circumspect on the
subject.

We will be giving examples that tend to show the existence in France
of indications of "privatization" of policing (1.) ; the question I ask
myself is less whether or not the phenomenon constitutes a real problem
as far as ideology is concerned than whether it might not be better to look
into phenomena of "publicization" through the legalization of procedures,
or of the status of social regulations agents (2.).

1. Formulas for "privatization"

There are two typical approaches to "privatization" : one in which the
State acts as a party to the contract, and the other which entails the
"privatization" of a public service.

a) The State as contracting party: Public companies or establishments can
act as partners of private security firms, as shown in figure 1 (next page).

The contracting private security companies respond through the usual
procedure of public invitation to tender (Code governing the public
market) for the protection or surveillance of government-owned sites.
Public establishments adopt this solution for two reasons: either because,
at a given moment, they consider themselves to have become "insecure"
with respect to the past, when an informal in-house security system was
sufficient; or because they have decided that the sentries used up to that
point are insufficient, or too reluctant to perform uninteresting tasks, or
too expensive in comparison with the private sector46. But these lines of
reasoning also hold for a large number of local collectivities who too have
learned to turn to private security agencies rather than setting up
"municipal police forces". Public managers are learning to weigh the
costs and benefits of using private agents against "renting" a public police
officer (the former always wins)47. If all eyes were on costs alone during

46 A good example of this problematic is illustrated in France by a reflection on the intensive
use of private guards in the Paris public hospitals, which manage their own budgets and
legal affairs (Le Duissen, Laure Colonna, 1992)
47 For a quantified and qualitative comparison of the phenomenon, see the Chaikes' ground
agent. Which means that, at the end of the day, physical security services are bound to decline⁴⁹. Nevertheless, if people have long put up with unsatisfactory security guard services, it is as much the fault of the public companies and establishments who contracted with the cheapest agencies and so perpetuated mediocre service.

b) The case of a "public service privatization": By a simple legal operation, a public service came into direct competition with other firms transporting money. It is no accident that this occurred in France during the first period of what was termed "the cohabitation" between a right-wing government and a left-wing president (1986-1988). In 17/09/1986, a decree "privatized" the famous postal security service (Service de Sécurité de la Poste), transforming it into a commercial enterprise dubbed Sécupost. A subsidiary of Somepost, whose entire capital remained in State hands, it was all ready to begin transporting money for a readymade market provided at birth. Not only was it granted the exclusive right to collect money from all post offices in the country, it was also given the chance to diversify its activities and seek contracts for the electronic surveillance of public and private sites. This operation created a de facto inequality of treatment to the detriment of competitors, who saw it as unfair competition. Their argument was flawed, however, since the post offices had never been one of their clients; and above all, they had forgotten to complain ten years earlier about another "aptive" market that the bank Crédit Agricole had been obliged to create from scratch. In effect, finding no armored-car company equal to the task of collecting all the money and assets from all the branch banks in all the rural towns of France, the bank created the SECSO, financing the entire capital.

As we see, the ways of privatization of security in mixed-economy countries remain much more tortuous than in ultra-liberal nations.

2. "Publicization" of private regulations?

If French public authorities are often accused of meddling in the mechanisms by which security agencies compete for contracts, this is something of a ritual complaint. Indeed, many other instances regularly go unmentioned, even though, inversely, they illustrate forms of "publicization" of the social control performed by private security. Two procedures taken from distinctly different examples will show a convergence, not in privatization practices, but in "publicization".

⁴⁹ The largest suppliers of labor in Europe according to Dedecker (1991).
a) Monopoly markets: There are some major security firms that enjoy a guaranteed income, notably those with a monopoly on the surveillance of Defense Ministry sites. In order to obtain a contract, they must submit to a number of acts of allegiance to the State: among these are a much closer screening of their economic and financial viability, the extent of their dependence on foreign capital, and the independence and "morality" of their agents, as there is the potential danger of theft of State secrets. The clauses of the contract are draconian, and very little room subsists for negotiation (cf. Manning, 1987). But, if only a few companies are entitled to these privileged contracts, this is largely due to the fact that these are headed or managed almost exclusively by senior civil servants (on loan from the Defense Ministry or in retirement). Even better, some companies, like SECFRA, were "created" by the Defense Ministry itself. To ensure the inspection and surveillance of French nuclear sites, a colonel of the National Gendarmerie and a number of career army officers were appointed to head this agency. On the whole there is no doubt that old-boy networks (O'Toole, 1978) of ex-civil servants recycled into security companies or in-house services are a highly significant dimension, not so much of the economic efficacy of these companies as of their "official" legitimacy. No one will hear them voicing their indignation at unfair competition because of inequality of opportunity stemming from a lack of imported "public order" culture in their management ranks!... And indeed, the presence of military or police officers, or professional firemen on the staff will always be, for any security agency, a warranty of seriousness and a considerable ideological asset in obtaining certain contracts or market shares, for clients automatically assume that these agencies are more reliable and experienced than the others.

b) Legalization of de facto situations: Certain security agents whose company has privileged contracts with national companies grant themselves what the French call "prérérogatives exorbitantes de droit commun", that is rights and privileges over and above those enjoyed by the ordinary citizen. Passenger and baggage searches in some French airports should theoretically have remained the exclusive competence of the Air and Border Police (Police de l'air et des frontières). As the use of private inspectors became widespread as a consequence of a division of labor between private and public security agents, lawmakers intervened (art. 15, law of 10/07/1989) to put an end to this situation, not by forbidding the practice, but, on the contrary, by legalizing it. This gave private agents the option of being certified, even if they still had to work under a State police agent. Of course, as far as airport security goes, the number of private agents concerned by the text is low, but the symbolic gains are considerable for the two French societies that, to date, enjoy such favors, since their agents now have greater symbolic and real powers than the competitors.

The same process can be observed in the case of massive litigation which concerns the general public more directly: shoplifting in supermarkets. The phenomenon had become so widespread and commonplace that the courts were being asphyxiated by the repetitive nature of the cases before them. For this reason, in 1985 the French Justice Minister instituted a (non-mandatory) "simplified complaint procedure" allowing public prosecutors to dismiss these cases (under a certain number of precise conditions "negotiated" between the shoplifter and the store detective), and to prosecute shoplifters if they re-offended. This procedure seems indeed to have brought down the number of cases. But above all it triggered a disturbing perverse effect: studies have shown that 90% of the time supermarket directors do not report the offense, preferring the informal "transaction" with the shoplifter; it is not clear, however, how much "constraint" the negotiations entailed. The problem, often denounced in the media and by racket victims, has gradually shifted ground. At present the supermarket lobby is campaigning for collectivities to legalize and legitimize the practice of "private justice". The solution to this increasingly debated problem follows the same logic as above: it means bringing the de facto powers of security agents into line with the law by having sworn agents, i.e. officially recognizing their officious status as auxiliaries of the justice system.

Conclusion

To sum up, I maintain that the commerce of private security and the practices of this sector cannot be explained by the economics of supply and demand, for it is hard to conceive of this commerce outside the framework of state regulation as a whole, whether the State acts as arbiter or partner. The emergence and gradual institutionalization of this commerce in fact both supplements and complements the other resources the State provides for its citizens. I do not believe that the selling of security in itself threatens the legitimacy of the State as defined by Weber, or at least not in France, nor in the other EC countries. I would 50 On the hand the law gives shop detectives and security guards no powers of coercion over "shoplifters"; on the other, the police are in most cases not interested in such picaéllités.
be less categorical about the situation on the other side of the Atlantic, however, and particularly in the USA. In all likelihood, the different forms of policing are due to cultural differences which themselves are closely linked to the logic underlying the development of the individual police systems. It is not rare, for example, in the US to hear the claim that the private security sector has grown so large and powerful that it could take over the activities of crime prevention and dissuasion from the public police. It should be noted that the arguments advanced are used both to deplore and to applaud the phenomenon (e.g. pro: Fixler, Poole, 1988).

Personally I am not an enthusiastic partisan of extending indefinitely the commercial resources of the private sector, either in France or in Europe, for this only helps further to divide or fragment our societies. There are alternatives to situational protection which must and can be put forward, community-based mechanisms, for example, whose philosophy of action would not be dictated by economic reasons. That is why protection devices must remain secondary means of action in prevention policies that include them in their strategy, whereas present trends show that we increasingly let ourselves be dominated by them. If we are not careful, there is a serious risk that the "values" that flow from a purely instrumental system of security will in the end unseat, not to say actually kill off, the values of liberty.

Of course, it may be objected that there is no true liberty without security, of which I am firmly convinced. What I am not convinced of, on the other hand, is the purported efficacy of security marketed by industrialists and specialized services by means of what remain fundamentally ambiguous messages. Indeed, while the "progress" of protection systems is driven by the need to foil (among others) criminal ingenuity, the same industry is obliged, if it wants to sell its security systems or services, to make their clients, future victims, believe that their premises, assets, etc., will become vulnerable! If we carry this reasoning to its logical conclusion, we are dealing with either an industry bent on suicide or one that is working actively and objectively to bring about a "bunker" society.

In reality, the private sector’s strengths are inextricably tied in with the policies and strategies of the insurance companies, upon which this sector is structurally dependent. To all evidence, it is the insurance companies that are currently in the best position to dispense instruction in the protection of property against acts of malice, and the State maintains a benevolent neutrality. Far from curtailing their activities to compensating damages, insurance companies have come not only to monitor the efficiency of the security equipment on the market, but are beginning gradually to orient their clients towards the industrialists who will undertake the protection of their premises and assets. Insurance companies are betting that a consciousness raising campaign aimed at insured "victims" will pay better that speculating on an unpredictable state policy of dissuasion based on the repression of offenders, of which there is a continually reproduced pool.

Any future debate would be short-lived if it were restricted to the question of conflict, competition or cooperation between public and private police forces. The alternative facing us is much more fundamental, it is intrinsic to the crisis of the Welfare State, which must come up with solutions if it is to survive (Ewald, 1986):

- either the grip of the private security sector will grow stronger as insurance companies incite their solvent clients to equip themselves with protection. Does this not raise the risk of ever greater inequality between the insurable and the uninsurable, between the overprotected and the underprotected, if the authorities do not react to this danger?
- or we finally come out of the economic recession or even enter a new phase of expansion which might alleviate the present fixation on security. Might not the consequence then be a lessening of the private security sector's hold on the market so that the beneficial effects of the Welfare State may continue free of threat?

A natural pessimism inclines me to the first likelihood, although I am not yet resigned.