A Comment on Videosurveillance in France: Regulation and Impact on Crime

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In France, Closed Circuit Television (CCTV) has often been seen and discussed as a threat to public liberties rather than as an instrument of crime prevention. Currently, French civil society views the expanding use of CCTV as a threat reminiscent of Bentham's panopticon. In fact, CCTV monitoring is closer to road-traffic monitoring. CCTV in urban public places is far from Bentham's program, which was conceived as a means to identify, record, and lock in everyone at the same place. Deviant behaviors were to be corrected through severe discipline.

In France, specialists are divided between two perspectives:

1) Civil rights and privacy should be protected from CCTV monitoring;

2) CCTV monitoring is justified by the need to protect citizens' safety and reduce crime.

Both points of view share the assumption that CCTV is an efficient system.

But, paradoxically, the efficiency of CCTV has never been debated in France. CCTV seems to be in fashion. No debate on costs and benefits preceded the decision to use CCTV monitoring. The only institution that might justify the use of CCTV in order to improve arrest rates for offenses against property is the police. As far as the police are concerned, efficacy does not lie in preventing crime, but in identifying and charging suspects. In this perspective, efficiency is measured in terms of criminal investigations by police. Yet, there is no scientific evidence of a link between violent behaviors in public places and CCTV use based on the best evaluations conducted in England on this matter. Unfortunately, in France, research on this question has not really begun.

Nevertheless, the perception of electronic surveillance in France has changed over the course of the 1990s. Several new uses of this technology have been received positively. For example, monitoring a convicted person at home is considered as a good thing because of the possible reduction in the financial costs of imprisonment. In this case, electronic surveillance is far from Bentham’s metaphor, because information is nothing more than an electronic means to control the convicted person’s presence at home. Another example of a use for CCTV recording is interviews which involve juvenile victims of
sexual offenses. This use is viewed positively because it reduces the need for specialists to carry out repeated interviews, which might produce psychological damage in children.

In other words, public authorities have had to reconcile different goals (protecting citizens' privacy vs maintaining public order). In the French case, it is necessary to bear in mind that CCTV usage involves several regulatory agencies, including:

1) The Commission Nationale de l'Informatique et des Libertés (CNIL), an independent administrative institution which protects citizens from public and private abuses concerning private information (data collected or pictures taken in public places);

2) The Commission Départementale de VidéoSurveillance (CDV), a new form of decentralized public regulation specially created to control CCTV use.

Although the CNIL has strong abilities to control data files and real legitimacy, it has no legal abilities in the case of a conflict involving CCTV, as it was stated in a Law from January 1995 and in a Decree from 1996. According to these legal texts, the Prefect in each French Département (administrative framework) is required to settle any issues involving CCTV systems. The Prefect makes his or her decision after consulting the local CDV.

This paper contributes the knowledge base on this matter. The first part deals with quantified considerations on effectiveness; the second part is a critical analysis on qualitative interpretations of the rules.

I. Quantified Elements of CCTV Assessment in France

According to professionals, CCTV equipment in France is far from the level of English equipment, although more than one million CCTV cameras have been sold there. In 1998 in France, about 150 enterprises produced and sold CCTV equipment and 2810 employees worked in this industry. Although this economic market is getting more and more concentrated, the top five enterprises only make 35% of the global turn-over in the field. As a comparison, the top five enterprises specializing in fire protection make 47% of the turn-over; the top five enterprises specializing in money transport make 87% of the turn-over.

Some valuable information can be drawn from the French Ministry for Internal Affairs, including official statistical data on the number of authorizations delivered to petitioners to use CCTV.

1) In 1998, Prefects delivered 28,000 CCTV authorizations. At the end of 1999, 38,520 CCTV authorizations were delivered.

2) The ten French geographical départements that are the most equipped in CCTV represent 35% of the total CCTV equipment in France (this will
likely increase when data on Paris becomes available). Of course, these départements are the most urbanized.

3) In 1999, Prefects received 4500 requests asking for the right to use CCTV; 4200 requests were accepted while 300 others were refused because they violated the law.

The requests break down as follows:

- 1689 requests came from banks or post agencies;
- 497 from shopping malls (megastores);
- 108 from chemistries;
- 80 from car parks;
- 57 from jewelers;
- 416 other.

4) In 1999, 19 complaints from citizens were received.

5) From 1997 to 1999, 201 cities succeeded in obtaining from authorities the right to provide CCTV equipment; 259 others continued using CCTV to control public buildings (art galleries, public libraries, schools, museums, swimming pools, churches, etc.)

6) Recorded pictures are usually kept less than a month. Keeping such pictures longer than a month is illegal.

II. Qualitative Considerations about Public Regulation over CCTV

Five members compose the CDV: the Commission president is always a judiciary magistrate, who is assisted by an administrative magistrate. Although these two magistrates earn salaries for their work, the others do not, which often gives rise to problems between them. The third member, usually a shopkeeper, is appointed by the local Trade Chamber. The fourth member is an elected local politician, for example a mayor. The fifth member has technical abilities (an employee specializing in the telecommunications field, or a risk manager, but neither a policeman who has not retired yet, nor a gendarme in activity). The majority of the members make the decision on whether or not CCTV can be used. These decisions may be followed by the Prefects. In 95% of the cases examined, there is no dispute between the Prefect and the CDV for the simple reason that the Prefect doesn't have any technical abilities to justify a decision different from the CDV members.
The Prefect is entitled by law to make the final decision. This decision is a purely administrative one. It can be contested and judged by an administrative court. One conflict between a Prefect and a city occurred in the case of the city of Orange, where the Prefect refused the right to have the inner city included in CCTV monitoring. The mayor wanted cameras installed over the national road which crosses the city, making it possible to see the drivers in their cars. The Prefect did not want a national road to be controlled by municipal agents and he refused all the petitioner's demand.

I would like to stress three important issues about the effectiveness of CCTV in terms of crime prevention:

1. In order to get the right to use CCTV cameras, the petitioner must show a risk of offense or theft, either in public places or in private places where citizens are allowed to move. Several factors may influence the decision: the extent of isolation, the closing hours (for example, a megastore or a gas station), the value of the goods (for example, banks, jewelers, or museums) or the nature of the goods (for example, drugs in chemistries). The degree of risk must be shown by concrete elements of objective vulnerability to crime. Everything indicates that the 1995 law has made the philosophy of situational prevention prevail over that of social prevention of crime.

   However, this measure is useless, insofar as situational prevention has never developed deep roots in France.

2. The concept of “a place opened to the public” is ambiguous; that is why it must be explained. According to the decree which describes the way the law should be enforced, a place opened to the public is “a place to which every one can have access, without any special authorization from anybody or any institution. The access may be permanent and unconditional, or with conditions such as paying a fee for the entrance.” Concrete examples are so diverse and complicated that the French ministry for Internal Affairs adopted another rule, which draws a clear distinction between, on the one hand, “places where everyone may go for a non-professional purpose” and, on the other hand, “private place where people go to work” (a workplace). According to this philosophy, a school, for instance, is a “private place” which receives employees, in this case, pupils. In a school, a CCTV system does not have to be declared to public authorities, except if cameras have been placed outside the school. Second, if it has filmed a public place, either the public place considered has been filmed as a whole or just in part.

3. The interests at stake for French bureaucrats relate to issues of control.

   It is important to stress that bureaucrats tend to interpret CCTV laws in a very restrictive way.
Certain types of users and materials are excluded from application of the law; for instance, users who possess a screen that can be seen by everybody. It is the same for tobacco sellers; in this case, the screen used is considered as a classical alarm system, whereas the image is perceived as a secondary element of safety. Systems that broadcast images without registering them are also excluded. Video cameras (camcorders) which monitor private houses, society headquarters or private car parks do not interest the CDV. This is the case for all systems that enable an owner, for example, to identify any person who wants to enter a private building. The person is not filmed without consent, because a dialogue takes place between the visitor and the owner. However, bureaucrats admit that CCTV raises problems relative to civil rights. In fact, the owner can always register images and film the street, although the law forbids cameras to film inhabitants who are inside their homes.

Bureaucrats encourage societies which manage motorways to adopt CCTV, although it has never been proved that motorways were particularly risky, that is to say exposed to attacks or thefts. Finally, bureaucrats make a distinction between good CCTV systems and bad ones. A good CCTV system is one which is useful and performs well; it enables public authorities to find out delinquents. Moreover, a good system is not difficult to control. On the contrary, a bad system is not helpful to the police in criminal investigations, and may to some extent violate civil rights.

Very restrictive interpretations of the law by French bureaucrats have limited the authoritarian temptation of the state to control the whole “protection market.” The state has not properly fulfilled its traditional duty to protect civil rights. It is all the more true that deontological rules do not concern public agencies such as the police. For example, the “Prefet de police” manages many CCTV cameras in public buildings in Paris without being controlled by the CDV. Theoretically, only the Ministry for Internal Affairs can constrain the Prefect to change the direction of a camera screen if he or she considered the spectrum to violate civil rights by filming what happened inside a private house, for instance.

4. Petitioners have to inform citizens that cameras have been installed in public places, even if they are fake. As a matter of fact, bureaucrats believe in the placebo effect for citizens who are, according to Oscar Wilde, “able to resist at all, except to temptation.” If citizens believe they have been filmed and images have been kept without their consent, they have the right to ask the CDV to investigate. For the moment, this case is also theoretical; it has not happened yet. The better advice given by bureaucrats to petitioners is to invite suspicious people to verify on the screen that cameras are not oriented towards the entrances of their houses.

Future problems for France lie in harmonizing French law with the European Community directive on the protection of personal data. French bureaucrats believe that the text which more fully protects civil rights against CCTV power will prevail. At the same time, they consider the French law better than the European directive, but citizens are not convinced.
In January 2001, the first “French Citizen Conference” on this matter (at Villeneuve d’Ascq near Lille) gave rise to the following proposals:

1. The closer citizens and the police get in practice through systematic meetings, the better things will be, as opposed to placing cameras between them.

2. If there are plans for cameras to be put in place, it is necessary that intervention modalities should be first considered and negotiated by as many citizens as possible.

3. Citizens should be regularly invited to access public or private places where monitoring is taking place.

4. If the CDV cannot be suppressed and replaced by CNIL control of CCTV, the CDV composition should, at least, be extended to two citizens.

5. Public opinion polls or surveys should be carried out more systematically and alternative solutions should be found before installing CCTV.

6. A phone number should be made public to enable citizens to call CCTV users in case of misuses regarding the law.

7. Common surveillance by inhabitants should be limited in order to avoid acts of private justice or denouncements for misuse to the police.

8. To make the use of real cameras, which can always be identified, the standard procedure rather than using any fakes.

These are important suggestions which should be seriously considered.