

Plural Policing

A comparative perspective

Edited by Trevor Jones and Tim Newburn

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8 Brazil

Jennifer Wood and Nancy Cardia

In Brazil, as in other Latin American countries, there are 'volatile and contradictory' (O'Malley 1999) tendencies in the politics of policing. On the one hand, Brazilian human rights activists and organizations play an important role in a global campaign designed to expose illegal and undemocratic practices of state institutional violence, particularly on the part of the public police. On the other hand, there is widespread popular and political support for violence as a policing tool, even to a degree that threatens the very principles of democracy and human rights. This 'punishment mentality' (Johnston and Shearing 2003), reflective of a broader crime control culture (Garland 2001), is justified now more than ever by heightened feelings of public insecurity during a time of real increases in crime, particularly that which is organized and violent in nature.

As this penal populism maintains a firm grip on collective sensibilities, other forms of policing that are not directly sponsored and authorized by the Brazilian state are diversifying and proliferating. Examples range from community-based vigilantism to police death squads, to commercial services and products offered within legal and illegal markets, and finally to forms of self-protection found in processes of fortification and urban segregation. When it comes to describing and explaining this field of policing and security governance, the utility of the public/private distinction as a conceptual tool becomes profoundly problematic. While for most scholars this is now a rather unoriginal and taken-for-granted insight (see Wood and Kempa 2005), the Brazilian case reminds us of the imperative to explore new conceptual directions in policing research.

In this chapter we will provide a sketch of what we know about the mentalities, institutions and practices of policing and security in Brazil with the proviso that the data we present is not comprehensive, but rather circumscribed by what researchers and journalists have been able to access to date. We also examine existing forms of regulation and accountability and describe some of their key limitations and failures. We end the chapter with a very brief proposal as regards to the key thrusts of normative work in Brazil for the future. As a beginning to this chapter we locate the Brazilian field of policing and security in historical context.

Historical context

Brazil experienced two decades of military rule before it entered its recent phase of democratization officially commencing in 1985. On 31 March 1964 there was a military coup ending the civilian rule of President João Goulart. As in other Latin American countries, the military dictatorship was responsible for grave violations of human rights in the form of torture, disappearances, and politically motivated murders in addition to other serious restrictions on individual liberties such as freedom of association. A key tool enabling this repression was the Institutional Act Number 5 adopted in 1968 which granted vast powers to military authorities to circumscribe citizens' rights (ICHRP 2003: 61).

The most serious forms of repression carried out by the military dictatorship ended in 1974, after which levels of repression began to diminish (Chevigny 1995: 145; ICHRP 2003: 62). In 1979, the Institutional Act Number 5 was suspended and an Amnesty Law was passed, granting pardons to political prisoners and allowing exiles to return home (ICHRP 2003: 62).

During the 1980s a series of events unfolded that represented what Caldeira and Holston describe as 'disjunctive democratization' (Caldeira and Holston 1999). Consistent with Western ideals of progress, Brazil embarked on specific processes of *political* democratization, including regime change, the introduction of elections, and the creation of new political parties (ibid. 691, 695). Moreover, social movements grew during the 1970s and 1980s (ibid: 695) and, in addition to a renewal of trade unionism, there were signs of what Kaldor would describe as a nascent 'global civil society' (2003) seen in the emergence of various non-governmental organizations in the 1990s (Caldeira and Holston 1999: 695).

Countering such generally positive events have been, and continue to be, very clear threats to Brazil's commitment to democratic principles (Caldeira and Holston 1999). For a start, real levels of crime in the country have increased since the 1980s, particularly crime that is more violent and organized in nature. In metropolitan areas such as São Paulo, Vitória, and Recife, homicide rates (whose victims are often poor young males) have doubled every ten years. Violence has also come to penetrate medium-sized cities comprising between 25,000 and 500,000 inhabitants. Even smaller cities, and some small rural areas, are losing their status as safe havens. Between 1992 and 2002 there were more than half a million serious assaults in the metropolitan of São Paulo, over one million armed robberies and 21,751 reported rape cases (per 100,000 residents). Between 1981 and 2002, homicides increased phenomenally from 14.62 to 43.39 per 100,000, having peaked in 1999 at 51.93. The growth in armed robbery is equally disturbing. In the early 1980s the rate was 233 per 100,000 and by the end of 1999 it was 905.99 per 100,000. The rate of car robbery, which is reported more widely to police for insurance purposes, doubled between

1996 and 2000 from 246.59 to 532.86 per 100,00 and has begun to decline in the last couple of years.

The crime problem can be partly understood as a negative (although predictable) consequence of changes experienced by a society in transition that underwent further restructuring due to global economic and neo-liberal imperatives (Schiffer 2002; Wacquant 2003: 199). Brazil has traditionally suffered from profound disparities in wealth which have deepened in recent times (Chevigny 1995: 146). These disparities can be seen across regions; there is considerable poverty in northern and north-eastern states, and many of its poor and homeless have been drawn to São Paulo which is seen as Brazil's 'economic giant' (ibid. 146; Schiffer 2002). By 1990 São Paulo's population was over 15 million in the metropolitan area, the majority of which were poor (Chevigny 1995: 146).

During the second half of the 1990s economic growth stalled, successive economic stabilization plans came into place, and the profile of the labour market began to change significantly. In the metropolitan region of São Paulo for example, industries left the region, opportunities for low-skill labour disappeared and the local governments collected less tax, which resulted in a lack of investment in public services (Schiffer 2002). All of this is thought to have contributed to the growth of violence. In Wacquant's terms, 'Brazilian society remains characterized by vertiginous social disparities and mass poverty, which together feed the inexorable growth of criminal violence that has become the main scourge of the big cities' (2003: 199).

Further jeopardizing democratic progress are levels of police violence that are higher than those before the democratic transition (Caldeira and Holston 1999: 695). Between the early 1980s and the early 1990s, the numbers of Brazilian citizens killed by the military police grew dramatically, to a point where in 1992, there were at least four people killed per day (Chevigny 1995: 147). As Chevigny points out, '[t]hat figure for one year, as well as the smaller figure for 1991, represents more deaths than all the deaths and disappearances for partisan political reasons documented during the more than fifteen years of the dictatorship' (ibid).

Ironically, militaristic and brutal policing has received popular support during the transitional period due to objective increases in crime coupled with high levels of public anxiety over insecurity. In a 1996 survey conducted by the Globo television network, violence was cited as the most serious problem for the metropolitan region of São Paulo. In a 1999 survey carried out in ten state capitals, it was found that 95 per cent of residents in São Paulo believed that violence was still growing, whilst 57 per cent of the population thought that violence would have a major impact on city life (Cardia 1999). Public insecurity has thus fuelled a penal populist attitude toward law and order, and furthermore (as we will discuss below), those with an entrepreneurial spirit and financial wherewithal have turned to forms of self-protection, most of which are found in both legal and illegal security markets.

It is ironic that those unable to participate in security markets – that is, poor and marginalized populations who themselves are the primary targets of police violence (Silva 2000) – equally express a penal populism that further reinforces the state's brutal stance on law and order (Paes-Machado and Noronha 2002; Caldeira 2002). That being said, fear of crime is an existential condition that cuts across classes, and political authorities exploit this near-universal anxiety to their advantage, especially when they are unwilling or unable to provide strong social programmes (Chevigny 2003).

One implication of this populism for human rights actors is the fact that in their efforts to deepen democratic transformation they are contesting a collective sensibility that supports violence as a central policing strategy. Far from being seen as harbingers of a new peace, defenders of human rights are seen as protecting criminals (Wacquant 2003: 200; Hanashiro 2000: 104). It is within this broader political and cultural climate that we examine the nature and organization of public policing in Brazil as well as other forms of policing and security that cut across the public-private continuum.

'Public' policing: nature and organization

The responsibility for public security is spelled out in the 1988 Brazilian Constitution. The country has a federal system of government, which means that penal law and procedure are established nationally while the organization and funding of law enforcement (including police, courts, and corrections) are the responsibility of each of the 26 states as well as of the federal district (see Macauley 2002: 6). Within this structure at the federal level there are two types of police agencies in operation: the federal police and the federal highway patrol. At the state level there are the state civil police and the state military police, each of which has different duties and jurisdictions.

The federal police are mandated to protect national and border security, and targets such crimes as drug trafficking, smuggling and crimes that cut across state boundaries. The federal highway patrol enforces the law on federal roads. Both the federal police and the federal highway patrol are small in size, with fewer than 10,000 agents combined. As a result, both forces have no capacity to maintain an effective presence in regions. Each state has a State Secretariat of Public Security in charge of the local military and civil police forces, scientific police and traffic authorities. This secretariat defines the strategies of public security to be enforced by the police forces.

The state military police are responsible for uniformed patrol and for the 'prevention' of crimes and misdemeanours. As their name suggests, all state military police forces possess a traditionally militaristic ethos and method of organization and discipline. While not related to the Army, the military

police were designed as an auxiliary arm of the Brazilian Army, to be deployed if necessary during the period of the military dictatorship. This auxiliary status has been retained with the enactment of the new Brazilian Constitution in 1988. The state civil police are responsible for criminal investigations, which include interrogation and the collection of evidence for criminal justice processing. Each civil police station is run by a chief (*delegado*) who is usually a lawyer (Chevigny 1995).

Municipalities do not have any constitutional mandate to deliver public security. That being said, some municipalities have instituted 'municipal guards' since the mid-1980s, whose role (whilst having no enforcement powers) is to protect municipal infrastructure such as parks and buildings (Caldeira 2002: 238-9). By 1999, 17.6 per cent of cities (municipalities) or 969 municipalities had municipal guards (Fundação IBGE 1999). It must be kept in mind that Brazil has 5,507 municipalities: 80.8 per cent of the municipalities with 500,000 residents have municipal guards as opposed to 9.2 per cent of municipalities with fewer than 10,000 residents.

In contrast to some of the other country contexts presented in this volume, it would be very difficult to institute municipal police forces in Brazil, particularly in major urban centres such as São Paulo. The São Paulo metropolitan area consists of 39 municipalities, each of which has its own mayor and city council. There is no over-arching governance structure that would ensure consistency between local government priorities and the overall interests of the metropolitan region. In this way, co-operative governance is a great challenge, as seen already in competitive or conflict-ridden relationships in the provision of public services like waste disposal or protection of water sources. Whilst state legislation exists in relation to the governance of the metropolitan area, there is no metropolitan governance authority.

Overall, police effectiveness is very poor and the justice system as a whole is generally perceived as unfair and inequitable (Chevigny 1995: 150). Evidence of both real and perceived incompetence can be found in reporting rates. Rates of victimization in Brazil are very difficult to ascertain, not only because of the classic 'dark figure' problem, but also due to the fact that victimization surveys, using robust methodological tools, are rare. With that in mind, in a 2002 victimization survey pertaining only to the city of São Paulo (not the metropolitan region) (Ilanud/FIA-USP/Gabinete de Segurança Institucional, 2002) it was found that under-reporting is widespread, except for car robbery and theft, having a 95 per cent reporting rate, as well as motorcycle theft and robbery at a 76 per cent reporting rate. In other kinds of robberies only a third of instances are reported. In property crimes such as break and enters of homes, shops, offices etc., there was found to be a 31 per cent reporting rate. Interestingly, this survey found that assaults were reported by only 27 per cent of victims, whilst theft was reported by only 15 per cent of victims. The least reported crimes, with a report rate of 7 per cent, were sexual assault, car vandalism and attempted break and enter.

Across all crime types, the average reporting rate was found to be 27.1 per cent, representing less than one-third of victims.

A lack of faith in the effectiveness of public policing is supported by statistics that reveal their poor investigative capacity. Data for 1996 in the metropolitan region of São Paulo shows that police investigated only 15.7 per cent of cases reported. By the year 2001 this figure dropped to 12.6 per cent of cases reported. Preliminary research undertaken by Adorno and Izumino (2003) shows that between 1991 and 1997, police inquiries into violent offences constituted only 6.46 per cent of recorded cases.

Poor police performance can be attributed in part to the ways in which the state and federal police agencies are structured and organized, particularly regarding the separation between the military and civil branches. These two state forces are known to compete more than co-operate, a situation sometimes fuelled by unclear jurisdictional boundaries, as seen in cases where a civil police precinct covers a slightly different territory than a military police detachment. Due to this rather basic lack of jurisdictional correspondence, it has been difficult to share crime statistics, to engage in joint analysis, joint goal setting, and joint performance evaluation. Even in cases of homicide, clearance rates are low. Adorno and Izumino (2004), analyzing homicides in the city of São Paulo between 1991 and 1997, observed that despite the Criminal Code, according to which the police notice of a homicide is the first step of the investigation, only 69.51 per cent of cases recorded by the police resulted in a police investigation. Clearly without such investigations there is little chance that cases will be cleared.

Typical to many countries, a common approach to police reform is to invest more resources. In the state of São Paulo, in the midst of increasing urban violence, the general public put pressure on police agencies to improve their performance. This outcry was catalysed by high-profile cases of violence in which elite members of Brazilian communities (such as well-known entrepreneurs and members of the media) had been victims. In response, the state invested in more material resources including personnel, cars, arms and other equipment. Investments were also made to improve the workplace conditions of officers, such as the development of collective life insurance, the provision of bullet-proof vests, and increases in wages (over inflation rates). The police subsequently invested in other technologies, such as Land Rover Defenders, helicopters, arms, and information and communications systems. The recording of criminal offences is now done on computer terminals, and police are now able more effectively to map crimes online by retrieving real-time data on registered offences according to street block. The police also made efforts to become more outcome-oriented, including the setting of goals and establishing quality controls and performance evaluation. Despite such investments in personnel and equipment, police effectiveness remained poor. While some short-term drops in crime were noted (and we are cautious about whether this drop will remain stable), other types of crime have grown.

In addition to problems of instrumental ineffectiveness, Brazil's police have not demonstrated a commitment to human rights protection since the transition to democracy. In fact, police brutality appears to have increased since the dictatorship. Constitutionally, Brazil's commitment to human rights and civil liberties is very clear. The country is a party to all major international human rights conventions and its 1988 constitution stresses the importance of civil liberties (Macauley 2002: 4). As Macauley points out however, Brazil's public policing institutions continue to be criticized for their abuse of human rights and for the impunity they receive. Recent reports by human rights organizations highlight serious incidences of extrajudicial killings, torture and mistreatment on the part of public police as well as prison officials (Human Rights Watch 2002, 2003b; Amnesty International 2003). The Human Rights Watch Report of 2002, drawing on statistics from the police ombudsman of São Paulo, indicates that in the first half of 2001, military police in the state of São Paulo killed 272 people, which translates into three killings every two days. The report adds that most of these victims had no prior criminal record and a disproportionate number of them were black or dark-skinned (Human Rights Watch 2002). Violence is also targeted indiscriminately at land activists and indigenous people. Military police involved in evicting land activists within contexts of land disputes have been accused of harassing and attacking them. Furthermore, hired gunmen carrying out killings of land activists are doing so whilst local police and authorities are apparently turning a blind eye. According to the Pastoral Land Commission (Comissão Pastoral da Terra), there were 38 killings of land activists in 2002, representing an increase of 31 per cent from 2001 (Amnesty International 2003). In the state of Pará, there was a minimum of ten killings of rural workers and trade unionists (Amnesty International 2003). Between 1998 and September 2001, there were 1,532 assassinations carried out in rural areas, with victims including workers, labour leaders and lawyers. In the majority of cases, impunity was enjoyed by the perpetrators (Human Rights Watch 2002).

A common method of reporting on such instances where excessive police force is used is to record them as 'resistance followed by death'. This victim-blaming strategy both reflects and constitutes an environment of almost total impunity for officers (Amnesty International 2003). Between January and October 2002, there were 703 killings by police in the state of São Paulo, a number equivalent to the entire calendar year of 2001. Of this number, 652 were registered as 'resistance followed by death', 138 of which involved off-duty police officers. Between January and September 2002, 656 killings by police were carried out in the state of Rio de Janeiro, a number significantly higher than the previous year's total of 592. In some states, 'death squads' (to be discussed below) continue to enjoy impunity that is strongly enabled by collusion with public police or by the participation of the police in such activities (Amnesty International 2003).

Torture carried out by police was depicted as 'widespread and systemic' by the United Nations Special Rapporteur on Torture (United Nations

2001, cited in Macauley 2002: 26). Both civil and military police torture suspects on a regular basis, both before and after arrest, in pre-trial detention facilities as well as prisons (Human Rights Watch 2003b). Children held in juvenile detention centres are a common target of police brutality (Human Rights Watch 2003a). In efforts to extract information or confessions or to extort money, police officers or prison guards routinely mistreat suspects, in some cases in the form of electric shocks or beatings. The inhumane conditions of detention facilitate and exacerbate the pain of torture, and torturers themselves enjoy almost complete impunity (Amnesty International 2003; Human Rights Watch 2003b). Accordingly to Amnesty International, while the federal government embarked on a campaign to reduce torture in 2001, prosecutions based on the 1997 torture law are very low. Between June 2000 and June 2002, 5,000 incidents of torture took place in São Paulo, according to the NGO Christian Action for the Abolition of Torture (*Ação do Cristãos pela Abolição da Tortura (ACUT)*). The NGO Global Justice provided figures indicating that since the enactment of the torture law in 1997, only 30 prosecutions for torture have taken place (Amnesty International 2003).

The injection of more material (particularly technological) and human resources has not had a discernable impact on practices of abusive use of lethal force in Brazil. It is a well known fact that Brazilian police forces routinely exercise lethal force, and increasingly the human rights community has sought to reduce impunity of errant officers. Cases of gross human rights violations have been brought against Brazil in human rights courts – such as the Inter-American Court of Human Rights of the American Organization of States (AOS) – most of which have involved state military police forces, particularly that of São Paulo. Use of torture as a strategy of the police has been of particular concern. In 2001, the Special Rapporteur on Torture for the United Nations, Sir Nigel Rodley, highlighted the problem of torture in institutions such as police precincts and prisons for young offenders.

In São Paulo, state authorities are required to produce reports every three months on deaths of civilians in cases defined by the police as 'resistance to prison' or 'conflict'. In São Paulo, the number of civilian deaths at the hands of military police has tripled since 1996, and the data from the first six months of 2003 reveals a continuation of this trend. Although counter-intuitive, it should be noted that the number of people killed by the military police is always higher than the number of people injured in confrontations with the police, which clearly suggests that police do not undertake tactical judgements of when it is necessary to escalate their use of force (and how) in particular situations.

It is clear from this data that the exercise of violence continues to be the core of what police do, and is indicative of a deeper 'punishment mentality' (Johnston and Shearing 2003) within the police and across society in general. While the institutional structures of policing – particularly the

separation of civil and military police – may impede progress toward effective and democratic policing, problems with police education and training provide a further clue as to the challenges of reform. Ethnographic studies of training for military police carried out by Paes-Machado and Noronha (2002), and Albuquerque and Paes-Machado (2004), reveal that despite the implementation of new curricula, police training continues to be embedded in programmes and practices that mould the subjectivities of trainees in line with a paramilitary ethos that undermines formal commitment to human rights principles. Official reform is thus undermined by cultural resistance, a classic dilemma of democratization in many countries. Lino argues that the key to transforming police education and training is to establish collaborations between universities and police academies, which will serve to integrate global training standards in areas such as human rights whilst supporting a multi-cultural learning environment (Lino 2004).

A third key factor impeding the democratization of policing is the current system of regulation and accountability. As we can see from the above discussion, there is a great deal of knowledge generated by human rights organizations about levels of state institutional violence in Brazil. This important function constitutes part of what Birkbeck (2004) describes as ‘moral work’ – that is, efforts to establish normative standards of conduct for security agents (through both formal and informal rules) and to assess concrete instances of police behaviour against such abstract norms. Indeed, the moral work carried out by human rights organizations (both locally and internationally) has been profoundly significant in this regard (on human rights movements across different country contexts see ICHRP 2003).

At the same time, this moral work can be impeded by concrete institutions and practices of regulation that, for one reason or another, tend to reinforce undesirable police practices. In the following section we will examine key mechanisms of accountability for public policing that currently exist in Brazil.

Regulation of public policing

It should be noted that in Portuguese, as in Spanish, the English term ‘accountability’ has no direct translation. In its place, a combination of terms is used to fill the conceptual gap, such as ‘regulation’, ‘control’ and ‘supervision’. In the Brazilian context, the notions of ‘transparência’, ‘fiscalização’, and ‘responsabilidade’ are used in a similar fashion (Macauley 2002). Macauley defines ‘transparência’ as ‘the existence of clear rules and performance criteria, laid open to public scrutiny’ and ‘fiscalização’ as ‘internal or external checking mechanisms to assess performance against rules, procedures and explicit criteria’ (ibid. 5). She defines ‘responsabilidade’ as ‘both a willingness and obligation on the part of institutions and individuals (here, police officers) to own the consequences of their actions, or to apportion blame or praise, and the capacity to take the proportionate

remedial action' (Macauley 2002: 5). '[T]hese three elements', she adds, 'are inter-related and inter-dependent. All three must pertain for accountability to be substantial and effective' (ibid).

Working from within this conceptual framework, Macauley assesses the three key mechanisms of oversight in Brazil, which involve a mix of internal and external forms: the judiciary in the form of military courts; the executive in the form of the internal affairs department (*corregedorias*) and the police ombudsman's office (*ouvidoria*); and the prosecution service (*Ministério Público*). The two forms of oversight located in the judicial and executive branches of government are entirely external in nature, as both the investigations of complaints and disciplinary actions are undertaken by the police or the military courts. The *Ministério Público*, according to Macauley, is an external, independent 'hybrid judicial institution' rather than a civilian oversight body (ibid. 7).

There is a separate system of military regulation for military police, thus creating a dual regulatory structure which is seen as the most problematic of flaws in Brazil's system of police accountability (ibid. 9). According to Macauley, the system of military justice lacks credibility along all three dimensions of 'transparência', 'fiscalização', and 'responsabilidade'. Not only are military institutions by nature insular and resistant to external inquiry, the deep culture of impunity for police misconduct makes it difficult to collect information on the workings of military courts (ibid). Nonetheless, the limitations of the military system of accountability are clearly apparent by looking at its structural organization. Initial inquiries into police 'misconduct' (as construed within a separate military penal code and in the 'regimento interno' of the military police) are undertaken by a military *corregedor*. This inquiry results in either internal disciplinary action or a military police investigation and possible prosecution that are carried out by a military prosecutor and military tribunal respectively. Cases remain in the military system except in instances of 'intentional homicide of civilians committed by on-duty military police' (Macauley 2002: 9). While the mainstream criminal justice system has jurisdiction over such alleged acts, it is the military investigators who determine the element of 'intentionality' in the first instance (ibid). As Macauley points out, the fact that military investigators retain this authority to define and construct the nature of an alleged act explains the high number of incidents classified as 'resisting arrest', which then leads to the dropping of charges. Compounding this is the systemic police practice of tampering with evidence which tends to remove, or at least challenge, proof of police malpractice (ibid).

Within this system of military regulation there tends to be an undue emphasis on severe administrative sanctions for relatively minor disciplinary infractions accompanied by a disproportionately low emphasis on punishments for serious instances of malpractice. This is partly explained by the occupational culture of military hierarchies that strongly emphasize discipline. Another explanation is the fact that disciplinary infractions are

spelled out clearly within the military's 'regimento interno', whilst very few rules exist about how to undertake core police functions like arrest or use of force (ibid. 9–10). 'Without rules', Macauley explains, 'that is, a baseline of established procedures in which police officers are trained and against which their performance is measured, *fiscalização* is meaningless and impossible' (ibid. 10).

While the military police are regulated by the Military Penal Code and the *regimento interno*, the civil police are regulated by the civilian penal code and the *Estatuto do Funcionário Público* (ibid. 10). Consequently, as Macauley explains,

a misdemeanour committed by both a civil and a military policeman would result in entirely different internal disciplinary consequences and, more seriously, in terms of the democratic principles of equality before the law, in different punishments handed down by the courts. A bifurcated police force results not only in inefficient and disorganized policing, but also in a fissiparous and ineffective oversight system.

(ibid. 10–11)

Both the civil and military police have their own internal affairs departments (*corregedoria*) tasked with preliminary investigations of complaints. Depending on the result of this investigation, administrative or disciplinary action may ensue, or a police investigation may take place, which thus involves the prosecution service in the laying of criminal charges (ibid. 11). Macauley describes these departments as 'slow, secretive, ineffective, and biased in favour of the police' (ibid).

The regulation of both civil and military policing is constrained by fundamental problems of incapacity, due to lack of training and skills development, as well as problems of culture. For example, it is commonly known that military police officers – those who respond to crimes in the first instance – do not preserve the crime scene. While this problem is of major concern to civil police detectives (Pinheiro *et al.* 1999), and whilst it clearly compromises the quality of investigations undertaken by them, little has been done to build capacity in this area.

Lack of skills and capacity is also found at the federal level. Both the federal police and the federal highway police are generally considered to lack the competencies required to carry out their jobs effectively. This is of particular concern in regard to police enquiries which tend to be of low quality. Due to problematic enquiries, there are a high number of cases that are thrown out, which then serves to perpetuate public concerns over impunity of those who have committed crimes.

Since preliminary investigations provide an initial interpretation of what happened using particular language and meanings, serious instances of malpractice can be constructed as relatively normal or minor. For example, torture can be defined as 'abuse of authority' which obviously carries with it

less serious penalties. Macauley also notes problems of 'foot-dragging' which, if done effectively, can take the investigation in question beyond the statute of limitations for the relevant offence (2002: 12). The chances of disciplinary sanctions actually taking place are increased both by very clear and significant evidence as well as media coverage. At the same time, Macauley notes that there is a disproportionately low rate of sanctioning of senior officers (ibid. 13).

Of the regulatory rules that do exist within such internal affairs departments, they often fail to guide practice. Investigators also seem to lack requisite knowledge of new formal rules, such as those embodied in the anti-torture law of 1997. Also, existing rules guiding investigatory procedures (i.e. the Penal Procedure Code) fail to shape investigatory processes (Macauley 2002). Structurally, *corregedorias* suffer from the classic problem of 'regulatory capture' (see Prenzler 2000). They exist alongside other departments within the police organization and their human resources come from the general police population (resources which may flow in and out of this area). Thus, both organizationally and in terms of resources, there is no independence (Macauley 2002: 13).

In the second half of the 1990s, *ouvidorias* were established with the intention of monitoring internal affairs departments. In English, such bodies can be described as 'Ombudsperson Offices' with limited authority and independence. Based at the state level, these units receive complaints about police misconduct, prepare case summaries, refer the cases to the appropriate internal affairs departments and track the ensuing investigations. They may also refer the cases to the *Ministério Público* (described below) (Macauley 2002: 14).

There are significant inconsistencies across states in terms of the resources and infrastructure such offices are provided with as well as the specific mandates and forms of authority they possess (ibid. 14–15). That being said, these offices have been effective in shedding light on police malpractice. For example, police extortion constituted 60 per cent of complaints lodged with the Rio de Janeiro office during a 21-month period. The São Paulo office was, for some time, effective in demonstrating that the majority of police officer deaths took place whilst such officers were off-duty and moonlighting for the private security sector (an issue to which we will turn below). These offices have also made progress in exposing system problems with the working conditions of officers. Furthermore, since the *ouvidorias* guarantee anonymity, members of the public are more inclined to lodge complaints without fear of reprisal. Nonetheless, these offices remain powerless to undertake their own investigations or to shape what happens during investigation and prosecution (ibid. 15–16). This places the *ouvidorias* in an undesirable position of dependency vis-à-vis the internal affairs units which, as Macauley points out, 'are capable of engaging in forms of passive resistance, manifest in a reluctance to release information, or in their ignoring the *ouvidoria* altogether' (ibid. 16). Nevertheless, the

ouvidorias have contributed to a shift toward a culture of accountability for policing in Brazil:

[t]he notion that the public should have a right to oversee, control and determine the actions and priorities of the police represents a significant cultural shift in Brazil of which the *ouvidorias* are both a reflection and a constitutive element.

(ibid. 18)

Brazil's 1988 Constitution extended the powers of the *Ministério Público*. In addition to its responsibility for public prosecutions, it has a broader external mandate to ensure that public authorities uphold the law and Constitutional rights (ibid. 18). In this way it is an 'autonomous guardian of the law (*fiscal de lei*) and of the public good', thus serving to 'erode public tolerance of exceptionalism and impunity for those in positions of political and economic power' (ibid). In theory, the *Ministério Público* has both oversight and review powers, but in practice has accomplished very little in reducing human rights abuses on the part of the police. One partial explanation for this is an ambiguity surrounding the *Ministério's* core functions. Historically, it is essentially a prosecution service that depends significantly on the quality of police investigations. Today, the *Ministério Público* may carry out its own investigations, but in practice this creates duplication and overlap with the police *inquérito*. Often the *Ministério Público* thus simply relies on the police inquiry, the quality of which shapes the success of the prosecution process. At the same time, the Constitution indicates a much broader responsibility of the Ministry to ensure compliance of state institutions with constitutional and legal norms. Concrete interpretations of this responsibility however do vary. Some argue that the Ministry has the authority to scrutinize only the integrity of police investigations. Others suggest that all aspects of police practice should be subject to scrutiny (ibid. 18-19).

To an extent this ambiguity has been resolved in different states that have passed their own regulations (*leis orgânicas complementares*). For example, the state of Rio de Janeiro grants the Ministry authority to inspect correctional institutions and police stations (ibid. 19). This authority is granted to the members of the *Ministério Público* by the Constitution, article 129 of the Constitution item VII: 'The institutional function of the *Ministério Público* is to exercise the external control of police activities'. Each state then details how this control is to be exercised. The contested arena in different states, presently under review by the Brazilian Supreme Court, is whether members of the *Ministério Público* can investigate criminal cases irrespective of the police. The state of São Paulo provides for the greatest functional breadth amongst all states. Here the *Ministério Público* can inspect police documents, interview prisoners and verify the status of goods that the police have

confiscated, given historical problems with police trading such goods within illicit markets (ibid. 19–20).

As with other aspects of the Brazilian system of police accountability, the problem of regulatory capture is problematic in relation to the *Ministério Público*. The ideal space of independence required by any legitimate regulatory authority is crowded by a much-needed relationship of co-operation between the Ministry and the police in processes of both investigation and prosecution.¹ The Ministry is interested not only in successful prosecutions within their traditional criminal justice portfolio, but they are also required to ensure the integrity of activities carried out by actors within the criminal justice system, particularly the police. In weighing these competing priorities, something may have to give at a higher level of political decision-making, such as that carried out by the state attorney-generals who are in charge of the prosecution services (ibid. 22). For example, Macauley suggests that '[p]olitical pressures may mean that the priority of the state attorney general ... is a sustained crime reduction and criminal conviction rate, rather than a possibly counter-productive clash with the police over their questionable methods' (ibid. 22).

From the above discussion it is clear that the various public police organizations described above are central actors in the governance of security in Brazil. Because of this, they have been the target of various regulatory efforts (as limited as such efforts might be). We now turn to other actors whose primary role is to contribute to the enhancement of policing and security. Before we move on to a discussion of commercial actors, we provide a few examples of developments in the non-commercial sector.

Non-commercial actors

In addition to traditional public police bodies, many non-governmental organizations have been formed during the past two decades to enhance security. For example, the São Paulo Institute Against Violence was formed in 1998 as result of a proposal by an International Seminar on Violence which recommended that the economic elite organize as a pressure group on matters of public security. The Institute was constituted by representatives of the São Paulo Federation of Industrialists (FIESP), Trade and Commerce, Banking, Insurance, Transportation of Valuable Goods, Advertising, Television, the School of Public Health (University of São Paulo), Getúlio Vargas Foundation Business Administration School, Centre for the Study of Violence (University of São Paulo), Viva o Centro (an organization that tries to renew the old centre of the city) and the Roberto Marinho Foundation. The Institute has two notable successes. It established both an anonymous phone-in service that enables citizens to assist both the police in their investigations and the São Paulo Metropolitan Forum for Public Security. The call service has been successful with the public and has contributed to closing numerous cases of

kidnapping, robbery, murder, and drug trading. Information provided by callers has also assisted in rescuing victims and in arresting delinquents.

In São Paulo the Metropolitan Forum has been working to enhance local governments' involvement in security issues. For over three years mayors of the 39 municipalities from the metropolitan region of São Paulo have been meeting to discuss ways in which they can contribute to the primary prevention of violence. The Forum has also encouraged dialogue between mayors and state public security authorities. An important result of this is that municipalities now have access to GIS crime databases from the Secretariat of Public Security. This allows municipalities to plan more strategically around how to prevent violence.

The federal government through the Ministry of Justice has responded to the continued crisis of insecurity in the large urban centres by designing and implementing two national security plans. The first one (2000) financed the modernization of equipment of state police forces based on the proviso that states would make a clear commitment to improving their performance and would accept a performance evaluation by the federal government. The second plan (2003) formally requested that state governments sign a commitment to adopt standard procedures for registering and reporting crime, improving data collection and provision in order to feed a national database on crime, encourage local police forces to work collaboratively with each other and with the federal police in joint operations and to implement an Integrated Public Security Management Group, including representatives of the Ministry. This plan also encourages co-operation between the two forces by unifying training, territory, pay scale, disciplinary code, and command (preferably a civilian), and hierarchy.

Occurring alongside these developments are initiatives in commercial security and self-protection. The feelings of anxiety about crime and violence mentioned above have prompted those with sufficient entrepreneurial spirit and financial wherewithal to exercise self-direction in meeting individual and common security needs. In the following section we examine the commercial security market before discussing vigilantism and the more contemporary phenomenon of segregation and fortification.

The security market: entrepreneurialism and self-protection

A key aspect of the security market in Brazil is the existence of private auspices that sponsor security services provided by commercial enterprises. Growth in this area can be traced back to developments in 1969 in the banking sector. Prompted by a high incidence of robberies in large urban centres, the Central Bank formally required via decree that banks provide for the security of both their assets and their clients. According to the decree, if banks did not comply with the requirement for self-policing, they would be shut down by the Central Bank. As a result, a number of private

security companies were formed and, in theory, were to be supervised by the State Secretariat of Public Security in conjunction with the Central Bank.

Unsurprisingly, the niche for private security grew in sectors besides banking. For example, during the ten-year period between 1985 and 1995, the growth rate of commercial security far outstripped the rate of growth in public policing. The former grew by a rate of 112 per cent, whilst the latter grew by 43 per cent during the same period (Musumeci 1998). In 1998 the federal police estimated that 1,200 private security companies, with a total of 400,000 workers, were operating in the country. Twenty-five per cent of the total (290 companies) is said to come from the state of São Paulo.

According to the federal police, the main services provided by private security companies are the provision of guards to watch over property, bodyguards and escort services for the transportation of goods or to protect persons *en route*. In São Paulo by 2000, 30 per cent of the clients were industries, 25 per cent banks, 15 per cent public buildings, 10 per cent condominiums, 10 per cent shops, and 10 per cent others. The fastest growing branch of private security has been electronic surveillance (O Estado de S. Paulo 2000a). Gross revenue in this sector grew from US\$101 million, to US\$134 million in 1997 (a growth of almost 34 per cent) to US\$615 million in the year 2001 (Folha de São Paulo 2002).

While it is difficult to find reliable data on the nature and size of car armouring, a 1998 estimate suggested that four large and 14 middle-sized car armouring companies were in operation, most of which were foreign companies (Gazeta Mercantil 1998a). The first Brazilian-owned company was established in 1987 in the city of São Paulo (*ibid*). By the year 2000 this industry had grown exponentially. Between 40 and 45 car armouring companies were said to be in operation, providing approximately 450 vehicles per month. In this same year there were at least 13,000 armoured vehicles circulating in the country, particularly in São Paulo. Some cars were also being exported to Argentina, Peru and Chile (Gazeta Mercantil 2000b and 2000c; Diário de São Paulo 2003).

While car armouring was traditionally a luxury that only the very wealthy could afford, the market has grown to be accessible to Brazilian professionals in general. Indeed, the boom in the car armouring industry was spurred on by a wide fear of either being kidnapped or becoming a victim of armed robberies at traffic lights. The industry responded to this by adopting its technologies to less expensive cars, from the Mercedes-Benz, BMW and Audis and sport vehicles (the SUVs) to the Golfs, Ford and Fiat models. Client needs vary. Some wealthy people decide to 'downgrade' their vehicles as a means of disguising their economic status. Others simply want to protect their families. Some companies began providing armoured cars to their executives as a fringe benefit, as a means of reducing insurance, and/or to enhance feelings of security and/or to assist with the trauma of having been a victim of crime (a trauma which ultimately has impacts on productivity)

(Folha de São Paulo 1997; O Estado de São Paulo 1998; Gazeta Mercantil 1998a; Diário de São Paulo 2001; O Globo 2002).

In 1983, new legislation designed to regulate the private security industry was passed. This legislation designated the Ministry of Justice as the main regulatory institution with responsibility to authorize and monitor private security companies. At a practical level, the federal police have been undertaking this function under the authority of the Ministry of Justice. The private security legislation of 1983 stipulated ways in which recruits should be trained on the part of training centres established by the private security companies. The federal police were also tasked with supervising this training component. In 1995 further legislation came into effect that served to reinforce the regulatory function of the federal police. It also allowed for the police to charge private companies for undertaking authorization and monitoring functions.

While the public police were charged with supervising private security, many close relationships had formed between agents working in these sectors, generating a fundamental issue of collusion. Theoretically, private security functions are supposed to complement those functions carried out by public police, a principle that is spelled out in the legislation. In reality, there is promiscuity across these two sectors, as the public police provide human resources, with particular kinds of skills and know-how, to private enterprises (Musumeci 1998).

Existing regulations contain some rather strict requirements for private security entrepreneurs. For example, in order to be granted approval by the federal police, company owners must be Brazilian-born, have Brazilian citizenship and must have initial capital financing of R\$110,000.00 (approximately 21,232 GBP). In addition, a training course, which must be approved by the federal police, must be provided to recruits prior to taking up their positions. As an unintended consequence of such requirements, there has been a growth in 'clandestine' private security businesses that circumvent formal regulatory structures.

It is difficult to ascertain reliable information as to the precise nature and size of the (legal and illegal) commercial security sector as a whole. Clandestine operations escape the reach of formal statistics and a significant proportion of those who moonlight would obviously not report this employment. Furthermore, within the 'formal' private security sector, which is authorized by the federal government, control and monitoring of such activities is slipshod and the integrity of the data generated is questionable. With this in mind, in the year 2000 the federal police indicated that across both formal and informal companies, almost one million private guards were operating nationally. In contrast, a total of 510,000 public police officers were said to be employed across the country. For São Paulo, the federal police indicated that 306 legal security companies were in operation, employing 100,000 guards, with 165 of those companies being affiliated with the local trade union. The federal police also suggested that

at least 70 per cent of members of the military police forces moonlighted as private guards. Moonlighting was being encouraged not only by the existence of low wages in public policing, but as well by the growth in violence and fear which was serving to raise the demand for private services.

At the end of 2001 the Trade Union of Private Security, Electronic Surveillance and Training of the State of São Paulo estimated that 1,300 legal companies were in operation in the state of São Paulo, employing 330,000 guards and with 255,000 arms registered. The same trade union estimated that 5,000 businesses not registered with the federal police were employing approximately 600,000 guards. The annual growth rate of the industry, both formal and informal, was estimated to be at 25 per cent.

The security market as a whole responds very quickly to changing consumer demands, as the above example of car armoured demonstrates. We find a similar example in the area of cargo protection services. During the 1990s the crime of cargo hijacking grew phenomenally. This led to an increased demand for protection in the transportation of certain products (pharmaceutical, electronic equipment, tobacco products, and food) which further resulted in higher transportation costs. Between 1996 and 2002, the costs for providing transportation security increased from 3 per cent to 10–12 per cent of the value of the cargo (Folha de São Paulo 2002). This boom in the industry of transportation protection was catalysed in particular through pressure from insurance companies; the greater the risk to inventory, the higher the rates of insurance. As such, businesses were compelled to lower the risk profiles undertaken by insurance companies by purchasing security services (O Estado de São Paulo 2003). By 2002, the revenue for the private security sector, including both formal and informal security companies, was estimated to be R\$7.8 billion.

According to the Annual Survey on the Services Industry (Fundação IBGE 2002) carried out by the National Census Bureau, the private security sector grew by 4.2 per cent (equalling 14,000) between 2000 and 2001. Across the 2,580 formal companies identified, 352,000 people were employed across the country. These formal companies reported a net revenue of R\$5.6 billion in 2001. On average, each private security company employs 130 people, and (again on average) they generate a revenue of R\$2.2 million. Consistent with the findings of Musumeci (1998), the census survey found that private security companies were increasing their profit margin by subcontracting out services. Unsurprisingly, wages to those actually delivering services were seen to decrease between the years 2000 and 2001.

The major formal private security companies are located in the south-east of Brazil. The largest concentration of companies is found in São Paulo, which has 885 formal companies (32.8 per cent of the country) and an estimated total staff complement of 114,480. In 2001, the Services Industry survey (Fundação IBGE 2002) showed that illegal private security in São Paulo generated a gross revenue of R\$2.5 billion. In 1999 the federal police

reported to have closed 100 clandestine companies, although it was clear that this would not deter entrepreneurs from starting new companies and new addresses.

Clandestine companies have flourished mainly in the market for bodyguards and guards for premises such as condominiums and shops. The 1995 National Household Survey conducted by the National Census Bureau reported that 667,000 people work as 'private guards' while 675,000 work as 'watch guards' (Musumeci 1998). Watch guards tend to work for smaller businesses or for families without a formal contract (and hence without protection by labour laws), while 'private guards' may work for either legal or illegal companies (*ibid*). Of the above groups of private guards and watch guards, 10 per cent revealed this to be their second occupation, while indicating that their primary employment was in public policing. Of course, the real extent of moonlighting on the part of police officers is much higher.

Products and services in the high-tech area are often provided by foreign companies which, to the best of our knowledge, do not set up clandestine branch locations. Activities such as the provision of electronic surveillance and monitoring, provision of armoured car services, the sale and installation of security equipment and satellite monitoring of cargoes *en route* tend to require specific competencies. European companies dominate the market in the area of electronic surveillance, whilst armoured car services tend to be provided by the USA, Israel or Germany. Furthermore, the bulk of equipment in the high-tech area is imported. Based on data from the year 2000 in Brazil, 50 per cent of electronic surveillance equipment is imported from the United States of America, 20 per cent comes from Israel, another 20 per cent comes from Japan, 5 per cent comes from Canada and 5 per cent comes from other countries (Folha de São Paulo 2000).

Members of the legal private security sector have made sustained efforts to generate public awareness of the informal sector, something that obviously threatens the economic viability of the former. For example, the President of the State Trade Union of Private Security and Transportation of Valuables has conducted advertisements on radio news programmes warning listeners of the possibility that they are buying illegal services, and asks listeners to verify the status of the companies they have hired with the union. Both the federal police and the trade union are concerned that such companies are hiring 'criminals' (O Estado de São Paulo 2000b). It is a well known fact that ex-police officers, expelled from public forces for criminal conduct, readily find employment in the clandestine sector (Musumeci 1998).

One key to the success of illegal private security companies is the fact that they can operate at lower costs because they circumvent regulatory requirements. Workers are paid lower wages than their legal counterparts and there is no investment in training facilities for such workers. From the perspective of companies that do comply with regulations, the existence of this informal economy leads to unfair competition in the security marketplace.

Clandestine companies also contribute to a poor image of the private security sector as a whole because of their low standards in hiring personnel, the lack of training they provide them, and the potential forms of misconduct, such as criminal behaviour, that workers engage in.

Ironically, attempts to regulate the commercial security sector in Brazil have facilitated the existence of a dual economy. Existing regulations provide disincentives, rather than incentives, for entrepreneurs to operate legally. Of course, the problem is more complex than this. Insatiable public demand for more security, and for different kinds of security, allows both formal and clandestine markets to diversify and flourish. At the same time, both existing and ex-police officers, who bring to bear well-honed skills and capabilities, are enticed into the market in order to supplement their low incomes in the public sector. The fact that moonlighting is illegal is a moral imperative that neither overrides public demand for security (in whatever form) nor an officer's desire to profit from this anxiety.

Violence itself can be seen as both a commodity and an expression of communal retribution. The example of 'death squads' illustrates this dual meaning.

Death squads and extra-judicial killings

'Death squads' can be seen as groups that specialize in meting out violence on behalf of particular common interests. Huggins argues that there is a symbiosis between formal public policing and informal death squads, and indeed, the core 'service' that death squads provide was originally one provided by public police officers (Huggins 1997). Over time, squads have formed both within and across the formal and informal sectors of the economy, some drawing on officers already employed in the public sector, others drawing on private citizens. Forms of 'extra-legal vigilante violence' (Huggins 1997: 210) can be described along a continuum, ranging from more informal, spontaneous groupings involved in mob lynchings, to individual assassins (*justiceiros*), to relatively organized squads of off-duty police, to on-duty groups of police (ibid. 210).

Mob lynchings are carried out by civilians seeking justice by taking the law into their own hands. This is a highly spontaneous activity (hence the term 'mob' lynchings), prompted by the reaction of a crowd to a suspected law-breaker. Mob lynchings, often involving groups of strangers, are to be distinguished from 'communal' lynchings which are more organized and consisting of known members of a community that come together to redress an injustice to that community. Along the continuum are more systematically organized 'lone-wolf' killers (*justiceiros*) that are usually citizens who are out to protect their communities. At the same time, many *justiceiros* kill for money, meaning that their actions are not simply driven by their community attachments. Also, some lone-wolf killers are off-duty police, thus representing a direct link to the state. Even more formally

organized, with very direct connections to the state, are public police who are members of 'elite' police units, known for their extraordinary degree of 'bravery', who carry out killings while on duty (ibid. 211). 'The state', according to Huggins, 'has direct connections to such violence through its formal constitutional and operational control over the police, whose violence is officially justified by the state's declared war against drugs and crime, and under the military, against "Communists" and political "terrorists"' (ibid).

'Death squad' violence is also located on this formal end of the continuum. Death squads are teams of murderers, most of whom are off-duty police who are paid collectively by businesses or politicians. These squads are normally connected to other teams of murderers that also consist of members of the paid police. There are also informal death squads that are effectively endorsed by the state, as state officials give them jobs and secretly reward them (ibid).

Research undertaken by the Centre for the Study of Violence at the University of São Paulo has involved an analysis of changes in this phenomenon since the 1980s. In the past, groups responsible for extrajudicial killings made a point of having a clear identity (marking the execution with symbols), but after some governments arrested, tried and jailed some of the more highly visible groups, executions continued to happen but the nature of the aggressors became more hazy. As such, the centre uses the term 'extrajudicial killings' and it separates killings by hired gunmen from others. This conceptual distinction underlies the database it has developed (see below). In general the centre has more information on the victim and on the conditions of death than about perpetrators and cases are identified by how victims die rather than by who is responsible. The database (fed by five major national newspapers) shows that for the period of January 1980 to December 2003 the press reported the number of killings shown in Table 8.1.

The phenomenon of 'death squads' or 'extrajudicial killings' serves as another expression of the punishment mentality that supports coercion as a central technology of policing. This technology is used in a variety of ways by various actors working within and across state and commercial sectors and in accordance with common interests that are not easily understood as

Table 8.1 Extrajudicial killings in Brazil, 1980–2003

	<i>Cases</i>	<i>Victims</i>
1980s	696	1,187
1990s	4,391	6,959
2000–2003	3,281	4,951
Total	8,368	13,097

Source: Centre for the Study of Violence: Database on Gross Human Rights Violations

either 'public' or 'private'. The following discussion on trends in urban segregation and physical fortification provides another example of what may be termed 'common interest security governance' (Shearing and Wood 2003a), rather than say, 'public policing' or 'private security'. In this example, 'spatial sorting' (Kempa *et al.* 1999; Kempa *et al.* 2004) backed up by coercive capability is the central governance strategy.

Segregation and fortification

Police inefficiency, coupled with public distrust of police officials, has prompted some Brazilians (with the financial wherewithal) to take drastic measures of self-protection. Here we refer to initiatives aimed at insulating individuals and their families from criminalized and demonized segments of the population (Macaulay 2002: 4). Complementing violent policing in Brazil is an important contemporary development described by Caldeira as the 'new urban segregation' expressed in the construction of 'fortified enclaves' (Caldeira 1996a, 1996b and 2000). Caldeira describes these developments as 'privatized, enclosed, and monitored spaces for residence, consumption, leisure, and work ... They appeal to those who are abandoning the traditional public sphere of the streets to the poor, the 'marginal', and the homeless' (Caldeira 1996b: 303).

Fortified enclaves range from closed condominiums to office complexes, shopping centres, and other kinds of retrofitted spaces such as schools and hospitals (Caldeira 2000: 258). Consistent with Shearing and Stenning's conception of 'mass private property' (Shearing and Stenning 1981, 1983), these 'common spaces' (von Hirsch and Shearing 2000; Hermer *et al.* 2005; Kempa *et al.* 2004) serve both to contain and separate (see Hermer *et al.* 2005 on 'containment'), leaving those who cannot participate in this form of communal governance to organize their collective life in 'conduit spaces' (Shearing 1999). Caldeira explains:

All fortified enclaves share some basic characteristics. They are private property for collective use, and they emphasize the value of what is private and restricted at the same time that they devalue what is public and open in the city. They are physically demarcated and isolated by walls, fences, empty spaces, and design devices. They are turned inward, away from the street, whose public life they explicitly reject. They are controlled by armed guards and security systems, which enforce rules of inclusion and exclusion. They are flexible: because of their size, the new technologies of communication, the new organization of work, and security systems, they constitute autonomous spaces, independent of their surroundings, that can be situated almost anywhere ... Finally, the enclaves tend to be socially homogeneous environments. People who choose to inhabit these spaces value living among selected people (considered to be of the same social group) and away from the undesired

interactions, movement, heterogeneity, danger, and the unpredictability of open streets.

(2000: 258)

An emblematic example of fortification is the 'gated community', a significant development in Brazil to which we shall now turn.

Gated communities

The term 'gated communities' is not adequate to describe the enclosed, highly monitored forms of housing that exist in São Paulo, as they do not represent 'communities' in the sense that there is community life and an awareness that the members of the group share values, expectations, ideals and so forth. The irony is that people take to living in such enclosed, surveilled spaces to flee from the life in a community. A more adequate term perhaps is that of 'gated housing', by which we mean an enclosed (walled) form of housing, whether under the form of high-rise apartments or houses, detached or semi-detached, in which the external areas of the abode are shared with persons whose identity residents perceive to be known or controlled by someone they know. This type of housing tends to exclude residents from all external contact, fostering dissociation within existing neighbourhoods.

Some such communities may represent full suburbs, almost like small towns in the spirit of 'edge cities' and can be almost self-sufficient in the sense that they provide shopping areas, leisure, work and services including health, schools, and so forth. It should be stressed that these are few and tend to be located in the outskirts of the metropolitan region of São Paulo and cater for upper- and upper middle-class families, though some estates are beginning to be developed and sold in low middle-class areas. Earlier on in the late 1970s in the consolidated urban areas some groupings of high-rise buildings occupying large wooded areas were built for residential use, only differing from the suburban gated areas because they were self-sufficient. More recently, a new type of gated arrangement emerged – the 'horizontal condominium' or 'villa' mimicking a gated mews in which half a dozen dwellings are located in a heavily monitored plot within a regular city block, most often located in an upper-class residential area. Such groupings, depending on the size of the original plot, can gather up to 30 houses where previously there was a single home.

Whereas earlier forms of gated housing were sold to prospective buyers on the basis of quality of life, the newer sites are sold with two types of appeal: the quality of the surroundings in terms of the environmental attributes (namely the number of trees, the quiet, the beauty of the surroundings (outside the gates)) and on the basis of the security offered, particularly to children. This type of real estate is presented as an alternative that would in theory allow people to live in houses with the same security that flats are presumed to grant. This type of investment results in major profits for real

estate developers as they intensify land use, but this process is reducing green areas and encouraging conflict between residents of such housing and other residents in the area.

Of interest here is the question of how efficient these forms of housing have been in terms of providing a secure life. Unfortunately, there are no police statistics that can provide us with a clue. The study by Caldeira (2000) on some of the earlier forms of gated housing shows that they are not protected from external or internal sources of violence. Internally, a number of problems arise as many residents find it difficult to enforce rules that would reduce conflict between residents, in particular those that refer to the behaviour of youth (driving cars without a licence, alcohol and drugs use, consuming and trading drugs, perpetrating petty thefts and so forth). Some adults also have difficulty in respecting collective rules. In terms of external threats, once such 'edge cities' are built, their management and upkeep demand the presence of a number of manual labourers, who are then forced to find accommodation in their vicinity, thus existing 'on the edge of the edge', so to speak. In other words the beautiful model environment is soon surrounded by slum-like settlements inhabited by the people who provide the labour for their services. This reproduction of the inequality that reigned in the downtown is sure to generate tension.

The more recent and numerous types of gated housing, such as fortress-type high-rise buildings, are often reported in the press in São Paulo as well as in other states as targets of collective robberies. The same is being reported as happening in the 'villa' type of condominiums: a number of highly armed robbers, fully informed as to who is in the condominium, or in the high-rise fortress, arrive and use some strategy (e.g. delivering goods; visiting a resident whose name they know), disrupt the security, take control of the cameras and rob each of the residences in the place. This is a full-scale operation and one in which power and telephone lines are cut and in which much care is taken to prevent residents from calling for help. Some such large-scale robberies have kept their victims for hours on end in the hands of delinquents. Eventually, the police discover that the robbers received information about residents and about the security in the housing compound from a disgruntled worker, ex-worker or even a person in charge of the security of the place. Being able to screen your personnel properly seems to be a key requirement of security.

It would appear that in the case of enclosed communities, fortress high-rise, gated housing, villas, whatever the terminology, the idea that in a violent environment it is possible to create a small oasis does not in reality seem achievable. People will still have to circulate through the city and thus be vulnerable to the violence, and it is the realization that there are limits to what the private sector can provide in terms of individual protection that has led people to recognize that true security has to be collective. Thus, while fortification is justified largely by fear of crime (Caldeira 1996a: 55), it appears to have exacerbated the kind of 'exclusive society' of which

Young is critical (Young 1999) through its provision of security as a 'club good' (Hope 2000; Crawford, in press).

A further implication of segregation is the likelihood that those who do not travel to or live within fortified enclaves will be subject even further to the violent policing undertaken on behalf of a range of 'public', 'private' and 'common' interests (Caldeira 2002: 247; Hermer *et al.* 2005). Shearing and Wood speak of different groups of 'denizens' that are governed within and across particular kinds of common spaces in accordance with their status vis-à-vis particular governing auspices (Shearing and Wood 2003b). In a similar effort to challenge the naïveté of 'citizenship' as an underlying principle of contemporary governance, Huggins refers to the

'noncitizen' poor [who] are rarely protected by the state's social control system, [and] have learned to expect violent periodic Militarized Police lightning raids into their shanty towns, punctuated regularly by death squad murders, lone-wolf 'justice maker' killings, and lynch mob assassinations.

(Huggins 2000: 121)

This example illustrates the 'criminology of the other' (Garland 1996) that reinforces a widespread punishment mentality. The denizens of which Huggins speaks are the young, the dark-skinned, and the poor, and as such, violence exercised toward them sparks 'little political action and moral outrage' (Huggins 2000: 117). That being said, and as we indicated above, the 'moral work' (Birkbeck 2004) carried out by human rights-based organizations and other related interest groups are playing an increasingly large role in the field of security governance. In the year 2003, Human Rights Watch released a report titled 'Cruel Confinement: Abuses Against Detained Children in Northern Brazil' (Human Rights Watch 2003a). Reports like this, with reliable empirical data, are publicly accessible via Internet and other media, exemplifying the fact that the job of regulating policing and security is itself increasingly pluralized. In the conclusion to this paper we will briefly speculate as to the future of explanatory and normative work from this pluralist perspective.

Conclusion

The mentalities, institutions and practices of policing and security in Brazil are difficult to explain in reference to the public/private distinction. Mentalities, and the strategies they inform, cut across sectors (commercial and non-commercial), whilst individual security actors participate in different sectors within different times and spaces. There is clear evidence of a shared punishment mentality that privileges violence as the central technology of policing and security. This shared mentality is expressed in different ways through a range of practices that are enabled by particular resources,

capabilities and regulatory processes (or lack thereof). Repression thus exists, according to Huggins, along a continuum (Huggins 2000: 119).

In this way, it is perhaps more appropriate to describe the mentalities, institutions and practices of Brazilian policing in terms of auspices and providers that serve to promote 'common' interests and goods that exist somewhere along a continuum of more or less 'public' and more or less 'private' goods and interests (Shearing and Wood 2003a). These forms of governance operate within and across 'communal' spaces (Kempa *et al.* 2004) that are distinguished through physical markers and/or symbols. Within and across such spaces, groups of 'denizens' (Shearing and Wood 2003b) are allowed access, or conversely denied entry, depending on the rights and privileges they expect to receive in accordance with their access to economic and other forms of capital (see Wood 2004).

From a normative perspective, the security field in Brazil is fraught with regulatory challenges. While significant progress has been made by human rights-related movements in their 'moral work' of identifying forms of state institutional violence, concrete structures and practices of regulation still undermine this progress. As a future normative guide, one could adopt a very broad understanding of regulation, one based on 'influencing the flow of events' (Parker and Braithwaite 2003: 119) in ways that realize the multiple objectives of democratic governance, including access to justice, equity, fairness, respect for rights and instrumental effectiveness (Hermer *et al.* 2005). As discussed above, the key impediment to democratic transformation in Brazil is the existence of a fairly widespread mentality that supports brutal policing (of all forms) as well as urban segregation, to the end of enhanced security. In this regard, the regulatory challenge is two-fold: first, to improve mechanisms that *constrain* undemocratic behaviour on the part of *all* agents of policing and security (what we can conceive of as a *negative* conception of regulation); and secondly, to develop *new* forms of policing and security governance that provide more effective and democratic alternatives to violence and segregation (a *positive* conception of regulation).

To date, a negative conception of regulation dominates the debates on policing and security in Brazil and in other countries. The improvement of existing systems of oversight and accountability are undeniably essential, and must continue to be central to democratization efforts. In our view, what must accompany such efforts are forms of 'democratic experimentalism' (Parker and Braithwaite 2003) aimed at building new models of collective policing and security governance that provide non-violent alternatives to existing programmes and practices (Wood and Font 2004). New actors supporting a non-punitive mentality, such as those involved in the human rights movement, must play a more dominant role in the plural field of security by introducing new discourses and practices, ones that recognize collective feelings of insecurity whilst challenging the instrumental limitations of violence as a central governance strategy. In other words, actors from all sectors can, and must, develop new models for

both security and its regulation that radically challenge existing mentalities, institutions and practices.

Note

- 1 Affonso (2004) studied the impact of the legislation that removed from the military police the privilege of trial by military courts in cases of homicide of civilians in São Paulo. Affonso's research shows that impunity continues to reign as public prosecutors (the members of the *Ministério Público*) do not pressure the police forces to carry out proper investigations and in fact seem to be in collusion with the police forces to drop charges.

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