

## Private reconfigurations of police and policing: the case of Germany

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## PRIVATE RECONFIGURATIONS OF POLICE AND POLICING - THE CASE OF GERMANY

Detlef Nogala Fritz Sack

As the whole world is said to be in transition, due to accelerating effects of *globalisation* and rapid technological progress, *police* as a central institution of the modern state is unavoidably affected. But the most significant change is not with *the police* - although there have been a lot of reforms (on different levels) across Europe. The crucial difference has to do with the changing ways and attempts *how* provision of security is achieved, that is how *policing as a process of social control* is organised and accomplished.

Not long ago, in April 1997, *The Economist* carried a story<sup>1</sup> about encounters with forms of *private policing* in case one is about to enter the gateways and centres of contemporary western societies : screening of luggage and checking of passengers at the airport, guarding in stations and public transport vehicles or patrolling shopping malls and promenades - there is a good chance that these activities are carried out by employees of security-companies. This is a description which holds true for virtually all of the western countries. Unlike twenty or even ten years before, this visible surface of *non-state policing* has become an ordinary feature of *law and order-policy* even in the unified contemporary Germany. There is a lot more of *private policing* apart from the beaten paths of public traffic - nuclear power stations, military areas, industrial grounds and even government and police-buildings are secured by hired personnel, not by officers. There are, of course, shop-detectives and private investigators and in recent year we witnessed the creating of police-run vigilantes-groups in several of the Bundesländer, where ordinary citizens get a small pay for helping the authorities to keep law and order in city-areas.

As a result one could say that the idea of privatisation of (formal) social control, politically surely an offspring of neoliberal thinking, has made its way from across the Atlantic and the Channel to the European continent and even to state-centred countries like France and Germany.

The general picture of contemporary policing in Germany has not only been affected by the recent introduction of non-state policing bodies but also by a rapid process of technicization of policing procedures<sup>2</sup>. From the seventies on the German police have had a reputation of being on the technological cutting-edge of forensics and use of computer databanks and networks - today every single police station has access to INPOL, the nation-wide police information system. The ability to handle and store huge amounts of information comes of course along with an increasing demand for *social-control-related* data. Since long German citizens are accustomed to their machine-readable identity cards and the administration have asked every adult asylum-

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<sup>1</sup> 'Welcome to the new world of private security', *The Economist*, April 1997.

<sup>2</sup> Nogala, 1998a ; BKA, 1990 ; Busch *et al.*, 1985.

seeker since 1993 to give his or her fingerprints to be stored in a central AFIS-database at the Bundeskriminalamt. From 1998 on, after a long constitutional debate, police will be allowed to use hidden devices for acoustic surveillance even in private places, and telecommunication providers are now obliged to build in automatic connection-features into their technical infrastructure, so that the authorities can easily listen into conversations they consider suspicious or criminal. *Genetic fingerprinting* has become a *normal tool* in investigating certain crimes<sup>3</sup> and soon (in 1998) a national DNA-databank of convicted offenders will be opened. CCTV-surveillance, although long used for *traffic regulation* and on semi-private premises like banks, stores, and stations, has only recently been discovered for *tele-policing public spaces*<sup>4</sup> in town-centres like in Britain or Monaco. But its use as an general and widespread tool for *official prevention and security-policies* for inner-city areas is still in its infancy.

Police - and even more : policing as a type of activity - in Germany (as for other countries)<sup>5</sup> does not seem to be the same thing as it used to be over a long time in the post-war period, when police meant a more than dominant and specific form of state-run social control. Instead we are witnessing - apart from national particularities - the emergence of a pattern of a *mixed economy of policing* and its differentiations. Usual *policeman-policing*, as Robert Reiner puts it, *will become a smaller part of an array of impersonal control processes built into the environment, technological control and surveillance devices, and the guarding and self policing activities of ordinary citizens. The police will be replaced by a more varied assortment of bodies with policing functions, and a more diffuse array of policing processes*<sup>6</sup>.

In what follows we would like to shed some light on a part of this process, by briefly describing the specific situation and newer developments of *providing security* in contemporary Germany. We then challenge the concept of *privatisation* as a useful key for understanding what is going on and suggest instead to take an economic perspective on these developments by outlining a concept of *security-work* and discussing the changes in policing in consideration of socio-economic transformations.

## 1 - Policing and policing agents in contemporary Germany

If one tries to paint a picture of the current situation of policing in Germany, one would have to consider a variety of agents doing *security work*, some of them formally acknowledged as official or 'full' police, some clearly not, although performing police-like functionality.

Generally speaking, policing in the federal republic of Germany is a matter of each of the sixteen *Bundesländer*. Although there are some minor alterations in the scope of formal responsibilities their organisation usually falls into the main categories

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<sup>3</sup> Nogala, 1997.

<sup>4</sup> Müller, 1997.

<sup>5</sup> South, 1994.

<sup>6</sup> Reiner, 1994.

of *Schutzpolizei* (normally uniformed), *Kriminalpolizei* (criminal investigation officers), *Bereitschaftspolizei* (riot police and back-up reserve) and *Wasserschutzpolizei* (policing rivers, lakes, harbours). Statistically, in 1994<sup>7</sup> the *Schutzpolizei* represented the majority of police officers in Germany with calculated assets of about 160 000 ; criminal investigation officers accounted for about 32 500 and *Bereitschaftspolizei* for 33 500.

Apart from this constitutionally genuine day-to-day police there are policing bodies with executive powers on the national level, some with considerable political importance. The *Bundeskriminalamt* is the national centre for the investigation of serious crimes and the contact board for international criminal affairs. Its central collection of databases serves for intelligence as well as for investigative purposes. The political importance of this authority is far greater than what would be expected from its institutional size (about 4 500 officers). The *Bundesgrenzschutz*, initially formed as a border police, is another considerable federal force. It has undergone recently some organisational change, because both the vanishing of the inner border as well as the *Schengenisation* of the borders to the neighbours in the West (and now to Austria) made a restructuring of its tasks necessary. On the federal level other police institutions worth mentioning are the investigation units of customs and inland revenue, both with considerable executive powers. Taken together the police officers employed by state government institutions add up to an estimated number of about 250 000<sup>8</sup>.

Beside this official state police, which has dominated internal security matters since the beginning, there is now a growing variety of police-like *security-forces* appearing on the scene in public and paraprivate<sup>9</sup> areas. They are not seen as *real* police - not least because they lack the full executive powers of officers - but they perform certain police functions and are set up to support or even to substitute *conventional* police.

The most important of these non-state policing bodies - in numerical as well as in functional terms - are the personnel provided by security companies. Above all, the traditional night-watchmen has been transformed into the modern version of the hired security guard, patrolling police-like uniformed in certain semi-public areas like shopping centres or public transport areas. There have been in-house or commercial guards - for example on industry premises - for a long time, but since the mid-eighties the number of companies has risen substantially. What really makes the difference from the 70s is that commercial guards appearing and intervening in areas that are supposed to be used by the public, is not a local phenomenon anymore and has become a common event. What is even more important - this *private police* is (more or less) officially acknowledged in their policing function. This kind of *private police*, although yet small in absolute and relative numbers, represents a kind of *avant-garde* of the commercial

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<sup>7</sup> The following figures are from *Polizei-Lexikon* (Rupprecht, 1995).

<sup>8</sup> Höft, 1992.

<sup>9</sup> The term *paraprivate* is used by von Trotha (1995) in an instructive article about forms of and prospects for the state's monopoly of force. We believe that the word nicely catches the fact, that something is not *really* private, even if it calls so itself.

security industry's effort to gain a greater share of a security market, which is defined both by political and financial parameters<sup>10</sup>.

The other part of significant non-state policing bodies is formed by groups of volunteering citizens, performing as auxiliary or deputy police officers (so called *Sicherheitswachten* in Bavaria, Saxonia and other Länder)<sup>11</sup>. In contrast to well-known vigilant organisations like the *Guardian Angels*, which some time ago showed up in a few big German cities but quickly disappeared again after a short while<sup>12</sup>, this kind of citizen-patrols are *state-initiated, state-run and state-controlled*. Normally they go on the beat in their neighbourhood, equipped with radio and self-defence weapons only. Their task is to create a feeling of safety for citizens by keeping an eye on what happens in the streets, especially *incivilities*. In case of serious (criminal) incidents they are obliged to call the (*real*) police. In some Länder their authority goes beyond that of normal citizen : in Bavaria for example they have the right to check identity cards. This type of *citizen-watch* is a relatively new development in organising (public) policing in Germany - with a potential for further extension : the Bavarian government decided that their initial pilot-projects were successful and should be applied to other cities ; other Länder with similar schemes may follow this policy - if not for their proven effectiveness in crime fighting and keeping law and order than for their high political symbolism.

Nevertheless one should not forget that these social experiments in *part-time citizen-policing* are marginal in comparison with what state-police and commercial guards contribute to the overall amount of organised social control in Germany. Therefore in the next section we present some facts about the development of the 'private' security industry in Germany.

### Commercial security in Germany

Even in this country, where policing traditionally has been seen as the sole *business* of the state, commercial entrepreneurs have entered the field and are trying to conquer new territories for making tackling crime and social order a profitable business. While there are - in contrast to some developed English speaking countries - only a few neighbourhood-watch programmes or vigilante groups, we can observe - as in other countries - a flourishing market for security related goods and services<sup>13</sup>.

To illustrate the market for *private guarding* in Germany the following charts might outline the development.

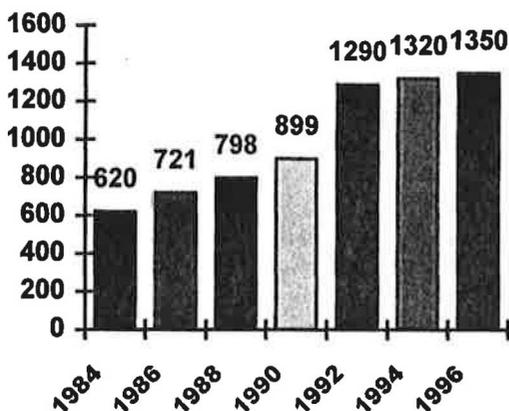
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<sup>10</sup> For a discussion of the marketing of *private security* and its political success, see Nogala, 1998b.

<sup>11</sup> For Bavaria there has already been sociological research about this new *policing by citizens*, see Hitzler *et al.*, 1997 ; Lustig, 1996 ; Göschl, Lustig, 1994.

<sup>12</sup> Wilmes, 1992.

<sup>13</sup> For a description of the German market see Nogala, 1992 ; 1993.



Source : Bund Deutscher Wach- und Sicherheitsunternehmen 1994

Figure I - Numbers of companies providing manpower for security purposes in Germany

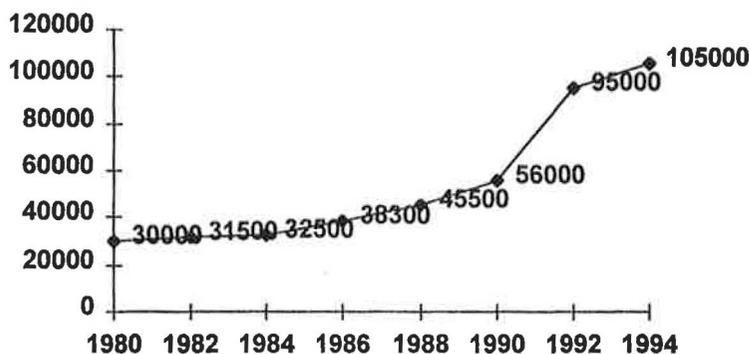
This graph shows the number of commercial companies providing guarding and security services, which has more than doubled over a period of twelve years. But it has to be taken into consideration that the remarkable increase from 1990 to 1992 is due to the then particular situation of *internal security* in the *new Länder* (former GDR). Between 1980 and 1994 the turnover of these companies (personnel services only) increased from 1.1 to 4.5 billion DM (in 1998 it is estimated for 5 billion. DM). It is important to understand, that the lions share of this market is hold by a few big companies, some of them belonging to international groups. On the other side most of the companies are small *mom-and-pop shops* with few if any hired hands. What seems to be clear for market analysts is, that the period of boom-growth is over and a process of concentration is taking place.

The graph below shows the number of employees in the businesses from 1980 to 1994. The number of officially registered employees of companies professionally providing guarding services has increased from 30 000 in 1980 to 105 000 in recent years. Again, the significant rise in numbers in 1990 is explained by the unification process. Nevertheless, these numbers are to be interpreted with some caution<sup>14</sup>. They do not include in-house security personnel, people working only on an occasional basis (e.g. on weekends) and they do not include small one-man companies which are not registered with the association of the industry. There are figures for people working as

<sup>14</sup> A more extended discussion of the problem of counting, police-forces can be found in Nogala, 1995.

security agents in-house (est. 70 000) of major companies, but it is more difficult to get a clear picture of the exact nature and intensity of their policing function. But there are other things to be taken into consideration. One of the major reasons for the increase in workforce and growth in turnover in the last 10-15 years is outsourcing of former in-house security services<sup>15</sup>. The watchman formerly employed in-house by a big company (like Siemens) may now finds himself as a subcontractor of a private security business, but still working in the same position at his old place. Therefore it is no surprise that 75% of all orders for commercial security services come from industry.

Nearly all of the rest consists of public commissions. Only 3-5% (5000 persons) of the work force is on duty in public spaces, like public transport, malls and pedestrian zones. The commercial guarding of residential areas is - in contrast to the USA - marginal in terms of the market. The latest count showed that there have been about 20 places in Germany, where affluent neighbourhoods collectively hired extra guarding of their area. Although these examples of hired *private* policing in residential areas caught much media attention and gave reason for political debates, this phenomena is far from being as significant as in the USA.



Source : Bund Deutscher Wach- und Sicherheitsunternehmen 1994

Figure 2 - Number of employees ; Security Business (Germany)

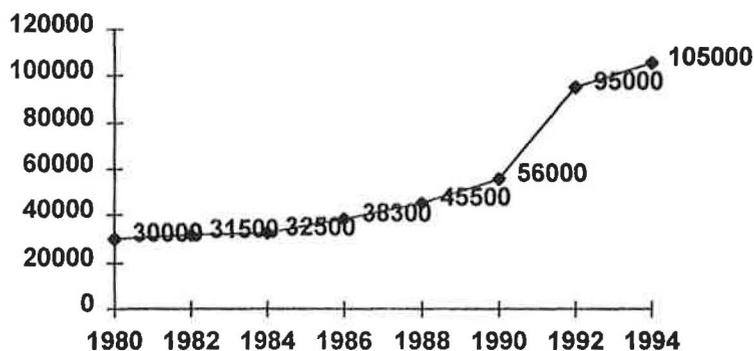
## II - Some issues of debate in Germany

*Private policing* in Germany was never a real subject of argument as long it was confined to 'private' areas like factory premises or unless major industrial disputes were on the agenda. Policing in public was the sole business of the state. Commercial policing became a political issue when so called *black sheriffs* were hired to control

<sup>15</sup> Olschok, 1995.

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Munich's underground system back in the seventies. It was the first significant appearance of *commercial policemen* in *public space*, although the area was legally *private* territory. Unfortunately for the industrial sector they were not very successful in creating a positive image of their work and this gave the whole business a bad reputation for many years. In an influential legal article Hoffmann-Riehm (1977) argued for a restrictive scope for non-state policing agents and commercial policing in public was virtually a non-issue for a long time until the unification process was accompanied by a rise in crime and perceived problems with public order.

But it is still the inherited negative image and suspicion against *private armies* the industry has to deal with<sup>16</sup>. Questions of missing qualifications, unsatisfactory services and even criminal behaviour are at the top of the list, the business spin-doctors have to deal with.

Representatives of the official police were very reluctant in the beginning, not to mention the police federation. But on the political level there was support early on for the extension of the security industry<sup>17</sup>. The current *gentleman's agreement* between the government, high rank police officials and the representatives of security companies seems to be, that as long as the monopoly of force is respected, the security industry is invited to unburden the official police by providing means and manpower, financed by *private* parties<sup>18</sup>. In turn the representatives of the industry never forget to emphasise that they are not after the state's monopoly of force and that they do not want to enter areas of sovereignty.

In the German context *the issue of costs* for providing public security was put to the political agenda only with delay and some hesitation, compared to the Anglo-American discussion on public policy. But as a result of (in relative terms) continuously shrinking public budgets, the managerial topic of *doing more with less spending* finally has gained round even in the highly political arena of inner security. The security industry is not hesitant in picking up this point and building their range of services around this argument. While a regular police officer on the beat costs about 100 DM (£ 40) per hour - without overhead expenses<sup>19</sup>, the calculation for a commercial security guard is between 16-30 DM (£6-12) - if he is an employee of one of the serious companies in the business<sup>20</sup>. Meanwhile the branch came under pressure from a heavy fight for dumping prices and it is no real surprise to insiders that guards are paid considerably less than the official standard rate<sup>21</sup>. Although there are already the first indications of unionisation within the commercial guards work force, the prevalent

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<sup>16</sup> Olschok, 1996.

<sup>17</sup> Nogala, 1995.

<sup>18</sup> Schult, 1995 ; Glavic, 1995.

<sup>19</sup> Feltes, 1994.

<sup>20</sup> Olschok-Tautenhahn, 1994.

<sup>21</sup> Hechler, 1995 ; Toussaint, 1995.

picture is, that people are employed for 7 DM per hour (£3), which is even less than the earnings of a charwoman<sup>22</sup>.

The competition for the lowest cost for security services has created a funny and ironic circle of argumentation and complaints between the different parties providing forms of security. While the guarding industry claims that they often can provide particular policing services significantly cheaper to the public than the state-organised police, they are attacked by police union officials for their short term training and lack of qualification. The training of a young police officer normally stretches over a three years period against a recently introduced 24 hour training for commercial guards. From the perspective of the security industry managers - and an increasing number of politicians - the all-round training for a officer is a waste of money, when his job will be giving parking tickets. At the same time the federation of the security companies is a very vociferous opponent of - this is how they call them - *underpaid opera-troops* and unqualified *mom-and-pop shops*, which they believe to completely undermining the already problem-ridden image of the business. Instead, they point to their *qualified* personnel and the professionalism of their services, which of course have their price to be paid. Suffice to say that the business-federation is no friend at all of any vigilante movement or state-controlled warden-system in the country. The public authorities, on the other hand, are playing their own double-bind game. Routinely they express their concern about the often low qualification of commercial security personnel and point to further legislation to be brought in in order to raise the requirements for running such a company. At the same time when authorities are calling for tenders if a commercial security service is needed, they routinely award the contract to the lowest bid - which are in fact often the companies with the worst paid employees and not the best reputation. At this point it is worth mentioning, that a good portion of the growth in the guarding market in Germany is caused by outsourcing *in house security* of big companies to external providers. The reason is clear: the applicable wage scale is considerably lower.

The situation of a general market with limited growth expectations and the imperative of cost-savings, however, has made managers of commercial guarding companies look for new business potential. Consistent with neoliberal philosophies in favour of privatisation of state-provided services wherever possible and profitable, they have constantly developed catalogues of extended services, which they could provide instead of official police forces. Among the tasks they would like to take over from police authorities and making it to their business are<sup>23</sup> :

- dealing with refugees and asylum seekers who are refused permits to stay in the country,
- traffic speed surveillance,
- monitoring of car parking and

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<sup>22</sup> Rechenberg, 1995.

<sup>23</sup> For a full self-description of the commercial security services in Germany in all details see the handbook, edited by Glavic, 1995.

- the transport of prisoners.

This demand for the extension of the market of course touches awkward issues of sovereignty and political control and the lines of debate seem to be divided along general political beliefs in the dominant role of *the state* respectively the *market* in organising modern society. No wonder that part of this battle is fought within jurisprudence. It would lead too far here to follow all the legal ramifications of the debate<sup>24</sup>. Suffice to say that the judicial basis for *private policing* mainly consists of three legal concepts: the *Jedermanns-Recht* (citizen's right of self-defence and right detain an offender until the police arrive at the scene), the *Hausrecht* (basically a property right, which permits an owner to exclude others from his or her premises) and the *Gewerbeordnung* (§ 34a of the Commercial Code regulates admission and conditions for running a security company). The debate is about how these different laws are to be interpreted, what they allow private security personnel to do and where the limits of policing for these bodies are. This is, of course, at the end a politically based interpretation and there were several parliamentary efforts by the social democratic opposition to clarify the situation by introducing a special law for the options and boundaries of commercial policing. These moves have been rejected by the conservative government so far, because they argue that recent modifications of the Commercial Code were enough for clear business practices<sup>25</sup>.

This position is questionable at least when it comes to *private policing* in public and paraprivate areas. In the city of Hamburg, for example, a representative of a commercial security company put forward in the summer of 1997 the suggestion of leasing certain public streets or places, that were considered to be problematic in terms of security or proper behaviour, to companies or citizen's association. On his mind were the areas around the main station (frequented by the drug-scene) and some prestigious shopping streets (where beggars try to get some money). In that case the *Hausrecht* would have been applicable, that makes it (legally) easier to remove unwanted persons from a territory and to exclude them from further use. This suggestion was part of a list of measures in a letter to the city's senator for internal affairs, that became known to the public. It was in particular a delicate (and somehow embarrassing) matter, because this security business representative had been the predecessor in his government position. On the other hand the proposal was made on invention from the incumbent senator. Although some commentators considered the plan in a way as *an immoral offer*, government representatives only pointed out that it may be too early for such solutions, but it may be a future consideration<sup>26</sup>.

What this example shows is the enormous shift within the attitudes of the political classes in relation to the issue of *privatising policing*. Across the relevant

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<sup>24</sup> Typical of the legal debates are Mahlberg, 1992, Jeand'Heur, 1994, Falck, 1995, Beste, Voß, 1995, Gusy, 1996, Stober, 1997.

<sup>25</sup> The different positions are represented by Arnim, 1996, Rupprecht, 1996, Möller, 1996, Pitschas, 1996, Stober, 1996.

<sup>26</sup> See *Hamburger Abendblatt*, June 6 1997.

political spectrum there now seems to exist a basic agreement, that commercial policing has an integrated part in modern security policy. Even the Greens have developed a basic acceptance of the role the private security industry has to offer. The relevant question is not any more, if there should be commercial policing at all, but to what extent it should be encouraged and to what size the part of the private security sector in the production of internal safety should grow.

#### Academic discussion

Even more than in academic legal discussion, the issue of *private police* attracted little attention among sociologists and criminologists in Germany for a long time, as far as commercially provided guarding meant senior night-watchman or in-house guards. There were of course links to the occasional legal discussion about the powers (and the restrictions) of *private police*, for example the right to bear arms on duty<sup>27</sup>. When more and more commercial guards appeared in semi-public places like public transport areas etc. in the early nineties, *private policing* was born as a legitimate object of criminological study. Stimulated by reading the literature of their English-speaking colleagues (in particular the works of Shearing and Stenning), German scholars began to discuss the phenomenon and its inherent problems in wider circles from a criminological or sociological point of view<sup>28</sup>. Criticism of these developments prevails among the authors and the issues are very similar to the complaints given by Anglo-American authors: concerns about the qualification and skills of commercial guards, problems with their legal statutes and almost a standard concern, the threatening of a democratic and equal distribution of security services if commercial policing is extended from *private* to public and para-private realms. Some even are suspicious that the agenda of the security industry is about to conquer the terrain of the penal law<sup>29</sup>. Although there have been some empirical studies<sup>30</sup>, the body of knowledge on the precise structures and practices of commercial and vigilant policing bodies in Germany is still under construction and is way behind that available for other western countries, especially those from the North American continent. This fact implies, that often the accompanying theoretical concepts and considerations are *imported* (by simple reception) as well. Attempts to develop a genuine approach for theorising the German (and in variation the European) situation is therefore *work in progress*.

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<sup>27</sup> Stacharowsky, 1985.

<sup>28</sup> See for example Narr, 1992, Voß, 1993, Nitschke, 1995. In 1994 a criminological conference took place in Bielefeld, Germany that put the issue of *Privatization of social control* on the agenda, see Sack *et al.*, 1995.

<sup>29</sup> Beste, Voß, 1995.

<sup>30</sup> The final report of a research project on private security by Beste, Voß and Braum (funded by the DFG some years ago), which contains some genuine statistics, is yet pending publication, but see Beste, Braum (1995). For an interesting ethnographic sociological approach to the field, see Jacobsen (1997).

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### III - Concepts and perspectives for theorising the reconfiguration of policing

#### 1 - Conceptual starting points : what is private about private policing ?

In the course of our own research on *Social Control Technologies*, which originally started out of curiosity about the role, impact and implications of advanced technologies within strategies of policing, we found ourselves confronted with the phenomenon of the security industry and its framing within what one might call the *economy of security*<sup>31</sup>. Starting from an examination of the industrial sources of modern control technologies and looking for areas where they are implemented in practice, it was clear that *private* arrangements for policing are a considerable and growing segment in this field. But the more we went into the subject of *private policing* and *privatisation of social control*, the more we were dissatisfied with the terms *private* and *privatisation*. We asked ourselves, what is *private* at all with the security industry and the *privatisation of social control*<sup>32</sup> ? Of course the terms are well established in the discourse, but are they really adequate for this object of study ?

Surely, the term *private* evokes different connotations in diverse cultural settings and this may be true also for the political buzz-word *privatisation*. But nonetheless we could not fight the impression that *private* - despite its common use in scholarly discussions - bears the potential for confusion and is misleading as a *theoretical category*.

First of all : its meaning is not precise enough for the phenomenon under scrutiny. The term *private policing* does not allow us to differentiate sufficiently such diverse bodies of *policing* as auxiliary, voluntary helpers of official police or vigilante groups or the more entrepreneurial manifestations like hired guards or in-house investigators.

Secondly : if private is defined as *not in public life, 'secluded from the sight, presence or intrusions of others'* (Webster's II Dictionary), one could wonder what actually links the arrangements of non-state policing with that genuine individualistic category or a culturally rooted concept of personal *privacy*.

Nevertheless *private* does make sense as the opposite term to public, when it is understood as the description for some autonomy against encroachments or unreasonable demands by a powerful state. And of course there is a long leftist and liberal tradition that spells *privatisation* as an ideological source for empowering citizens, decentralising power and enabling the governance of self-organised citizens<sup>33</sup>. But this is of course only one, rather optimistic version of interpreting what could be said about the term's semantics. To say it in the words of Turkel : *At the same time, it*

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<sup>31</sup> The results of this empirical research project are documented in Nogala (1998a) and Sack, Nogala, Lindenberg (1997).

<sup>32</sup> This question is extensively discussed in Nogala (1995).

<sup>33</sup> For example Cohen, 1987.

tends to legitimate and mystify patterns of inequality and structures of power through which individual autonomy, social institutions and legal actions are accomplished<sup>34</sup>.

Since *privatisation* in the sense of transferring state property or organisations into *private hands* is used as a genuine term of *political economy* (and thus as inevitably an ideologically contested one), we have to be very careful when we apply it to the realm of crime, social control and social order. We even stress this despite the growing popularity of *privatisation* initiatives across a broad political spectrum and the nearly complete discrimination of state-control paradigms after the demise of Eastern socialism. After some years of politically enforced and urged *privatisation policies* in different countries it is now plain to see that there are diverse *faces of privatisation*<sup>35</sup> some of them to be welcomed, some of them causing severe problems for whole economies and considerable parts of the population.

In short : the ambiguous meaning of the terms *private* and *privatisation* is problematic, because it mixes up connotations of autonomous citizenship and the favouring of profit-oriented interests, where scientific debate could only profit from a clearer distinction. It is the difference of *private* as a category of the civil construction of the autonomous subject and *private* as a political-economical determination which is covered and un-named instead of clarified when we talk of *privatisation* of policing (or formal social control) without further qualification.

## 2 - Agencies of *private* policing

Therefore, we suggest distinguishing between the *policing-phenomena* of vigilantism and volunteerism and those of the security industry which could be qualified as commercialisation and commodification. Without going into much detail, we would like to mention, that even vigilantism - seen as a form of active citizen's participation in forms of public policing - comes in two principal *flavours* : *autonomous and licensed*.

(1) On the one hand we have the various types of self-initiated and -organised alliances of people that can vary from spontaneous mobs to membership-clubs like the *Guardian Angels* or well organised militias. The common characterisation of these groups is that they are organised beyond, sometimes even against the official authorities<sup>36</sup>.

(2) On the other side we will find groups of volunteering citizens engaging in policing activities, that are not only tolerated, but initiated, promoted and - not to forget - in some way controlled by state agencies. Neighbourhood watch schemes, reserve forces and informants may be the best known examples of that category. In Germany the most modern version of this type of licensed vigilantism are the so called *Sicherheitswachten* (citizen warden). What makes this kind of *private citizen police* distinct from official and commercial policing body is that their motive is seldom

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<sup>34</sup> Turkel, 1988.

<sup>35</sup> Samson, 1994.

<sup>36</sup> See Hitzler, 1993 ; 1994 and, for an extended discussion of vigilantism, Johnston, 1996.

financial gain, they are rarely professionally organised and their life-circle is therefore normally not very lasting.

The security industry on the other hand has generated a very different kind of *private policing*. It is aimed at fulfilling the safety demands that come with the financial resources to compensate for security goods and services. Security firms are founded - and this is of course a truism - to make profit and are organised accordingly to the logic of the free market. The outstanding characteristic of this kind of non-state provided *policing* services is of course its commercialisation: it is a good with a price tag, normally not interested in the motive of what exactly is to guard or to police. But providing service (by means of active hands and brains) is only one state in which the security industry sells *policing*. The other is in form of commodities, i.e. security technology. The big bucks - and this seems to be true not only for Germany and the USA - lie not in renting out uniformed guards and wardens; instead the biggest turnover is made by selling locks, fences, CCTV-equipment and so forth<sup>37</sup>. While *commercialisation* simply means the exchange of a service for its money equivalent, *commodification* refers to the additional transformation of a security-promise into a touchable product<sup>38</sup>.

Just on the descriptive level there can be little doubt that advanced modern societies employ a variety of agencies who perform *functions of policing*. Of course, the term *police* in its institutional sense refers in essence to the real *Polizei*, which is uniformed, paid by state authorities and equipped with a specific set of legal rights - not at least the right to investigate, to arrest and to legitimately use force when necessary. Alone, is it as evident from what we see in our daily lives (and what from time to time gets academically published), that there are other social actors, who act - in one way or the other, occasionally or on a permanent basis - police-like, without being police in the stricter institutional sense.

The problem might be, that by moving from an institutional to a functional approach of understanding *police*, we could end up with the broad concept of *social control*. To limit these dangers of over-stretching the object of study, we might agree that in the criminological discourse we are concerned with the (social) prerogatives, procedures and outcomes of *organised, formal* social control processes. This indeed would include the activities of *non-institutional* policing bodies like the commercial guards or citizen wardens. By choosing an orientation at *activities* instead of *institutional* borders, we could base our observations on what Clifford Shearing (and others) call the *policing continuum*<sup>39</sup>. On a constructed scale with intense and powerful

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<sup>37</sup> There is already a process of rationalization of *private policing* by substituting manpower through technology, see Harowitz, 1993, Schärge, 1996.

<sup>38</sup> Spitzer, 1987, who (re)introduced the concept of commodification into criminological discourse, used it in a broader way than we would suggest.

<sup>39</sup> Shearing, 1992.

(regularly professional) policing activities<sup>40</sup> at one pole and no socially directed control activities at all on the other, we could place the diverse policing agencies depending on their policing intensity and their social impact. Although it is evident that there are a lot of differences concerning appearance, legal powers, accountability and so on between these policing agencies, such an approach would make it easier to see overlaps and similarities.

Using this idea, we would suggest there is a need to differentiate at least between four major types of policing agencies : (1) state, (2) public (non-professional, non-profit, citizen collectives), (3) commercial (often called *private* police), and (4) private (citizens as individuals).

### 3 - Security-work and the *political economy of security*

How to make theoretical sense out of all these facts and perspectives which are available for several countries ? Certainly there is already a lot of valuable analysis and insight by scholars from around the world, providing the criminological community with useful conceptions and theories of varying range. Yet, there is still room for variations and accents in what reasonably could be said about the change in policing in contemporary societies, before we arrive at something as a globally applicable theory of policing. From the point of view we have taken, in order to understand what is going on in policing, it could be worthwhile to revive an *economic perspective*, not as an exclusive solution to explain anything, but to take seriously the *foreground* and *background arguments* used by actors and proponents in the *private police-discourse*.

Therefore our general frame of reference is that of *political economy*. In these terms state-building and state activities can be theoretically conceived as the production and the maintenance of *public* goods and services. In order to achieve this aim, the state as a designated producer is provided with necessary resources (taxes, manpower) and powers (laws). *Public safety* in this sense is the central and constitutive public good, the *raison d'être* of the state - at least as there are real or potential threats to the general social order.

In contrast to this understanding of what the state as a specific producer stands for, the institutional mechanism for the production and distribution of private goods and services is the *market*. As (in theory) one of the structural elements of the market is seen in the *principle of scarcity*, which is in fact a highly social and cultural determined mechanism, dependent on and subjected to purposive manipulation and wilful actions, it

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<sup>40</sup> In order to interpret the results of our own research, we developed and made use of a concept of *basic* and typical functional units of any control activity. This includes : *detection* (as difference between expected and actual state), *identification* (as putting a thing, an event or a person into the adequate social frame of reference), *locating* (tracking) (as applying the spatial dimension to the object of control), *information processing* (as process of making sense out of internal and external data) and *intervention* (as the (sanctioning) realization of the *outcome* of the interpretative process) ; see Nogala, 1998a.

means in the case of the provision of *public safety*, a systemic and essential *insatiability* of the demand for security on the consumer side : from the perspective of the suppliers there never will be enough security for all. In modern societies, we can identify some specific aspects that contribute to the growing and insurmountable discrepancy between the demand for and the supply of security :

- the growing socio-economic *inequality* between different sections of the population ;

- the economically induced and medially entertained 'fear of falling'<sup>41</sup> which is notably spread among the (new) middle classes ;

- not least the *exclusionary effects* of modern capitalist society<sup>42</sup> which obviously can afford to abandon whole segments of its population, without having to fear revolution or the collapse of the entire system.

The challenge at this point is to understand how the different actors on the demand side of the security market (state as an institution, the media public or collectives of the *civil society*, e.g. the elderly) relate to the concepts, capabilities and assurances of the diverse *security suppliers*, and how the chances are that both ends meet.

Within this general frame of the *political economy of security* we find the debates about the *politically correct* lines of providing security in *risk societies*. As neoliberal rhetoric has become a kind of lingua franca among government elites around the world, all western welfare states governments put the imperative of massive cut-backs of public spending very high on their agenda, which makes it even more difficult to meet the growing demands for more *security*.

Any solution, that is a firm believe among the elites, would come from the market.

Nigel South, as well as other scholars, has rejected the often told argument *that the fiscal crisis of the state has encouraged commercial provision of private policing services*, for the reason, that by itself it would be inadequate and simplistic<sup>43</sup>. We would agree, if this argument is suggesting that *commercial policing* is only a streamlined and better managed version of providing security services. On the other hand, the rise of *private police* in all its variations can not be isolated from the managerial rhetoric of efficacy, efficiency and cheaper services, which seems to conquer all areas public discourse. To judge from the German situation - and the stories from other countries sound similar<sup>44</sup> - there seems to be a fierce battle on the supply side of security services about the (internal) value and adequate (external) pricing of what might be called *security-work*. The state, originally de facto supplier of *public security*, no longer able and/or willing to satisfy the growing demand for security (by policing), is confronted with the security industry as a new and cheaper bidder on the market. This

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<sup>41</sup> Ehrenreich, 1990.

<sup>42</sup> Castel, 1997 ; Luhman, 1995 ; Davis, 1990.

<sup>43</sup> South, 1994.

<sup>44</sup> Corwin, 1993 ; Cunningham *et al.*, 1990 ; South, 1988.

*producer* seems to operate with lower overall costs, in part because his *security-workers* generally get lower pay than state-employed officers and at the end of the day he would like to have made some profit. Interestingly enough, governments are developing alternatives in the *low-wage-area of security-work* by encouraging and supporting all kinds of (auxiliary) citizen-policing schemes ; thereby undercutting again the *security-prizes* of the commercial policing industry.

Seen from this point of view the reconfiguration of policing turns out to be a economic battle about the *conditions of producing security*.

If we carry on the fiction of security being a commodity on the market, a normal product in a risk society, what else could be said about the production process ? Our consideration is this : following Durkheim we can expect any form of complex social interaction system to generate its specific system of norms and sanctions that will call for a certain strategy of social control. It is more than evident that social control is operative only with a certain quantum of social labour spent on activities for it. Thus any society has to organise systematically its efforts to ensure the function of social control - on whatever level of intensity or differentiation. We may call that activity *sanctioning of offences, dealing with trouble-makers, management of risks, or, if one likes, providing security*. It all depends on the preferred rhetoric and line of discourse. If there is a state of security at all, it is conclusive to say that this state is never given or stable for all times and every condition. Instead it needs constant efforts of production or reproduction - which we would like to call *security work*<sup>45</sup>. At that point it does not matter if this labour is forced, voluntarily, organised or accomplished formally or informally, centralised or decentralised. Following this perspective all effort necessary to create or maintain a certain state of stable social order (=security), more specifically, all the committed activities of official, commercial and even volunteering policing bodies can be labelled 'security work'.

Continuing the metaphor of production it could be argued that *social control* can be seen as a semi-manufactured product in regard to the final outcome *security*. The problem with this pre-product is - according to the complaints from conservative, communitarian and even liberal parties - that in our late modern societies it is not longer manufactured in sufficient quality let alone in the old-fashioned, *natural*, craftsmen way of the long gone past. The *manufacturing period* of these *production forces*, which is linked to what Foucault described as the great disciplinary institutions<sup>46</sup>, although not yet completely vanished, appears to be somehow outdated today. Even the paradigm of Fordist mass-production with its consumer orientation - which is echoed in the massive growth of state-police institutions in welfare societies - has already exceeded its zenith

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<sup>45</sup> In a historical and cultural examination of the development of the industrial period German sociologists Negt and Kluge (1981) described the activities of WW I soldiers as *war-work*. In spite of the fact that the results of this activities can be judged highly controversial, the amazing (and simple) truth remains, that it is still work that has to be done. We just allowed ourselves to apply this perspective to the area of social control/policing.

<sup>46</sup> Foucault, 1977 ; also Treiber, Steinert, 1980.

of productivity and - under conditions of a globalised market - seems to be rapidly loosing its competitiveness<sup>47</sup>. The rise of the security industry is probably the main indicator of a *new mode of production of social control* and (eventually) security emerging in late- or if that is philosophically preferred - post-modern *risk and information - societies*<sup>48</sup>. Security becomes an information-industrialised product of manager-organisations which try to gain their (supposed) productivity advantage by using all kinds of new technology and looking for the ultimate efficiency reservoirs. The *Control Revolution*<sup>49</sup> that was necessary to overcome the massive problems posed by the accelerating and more complex production processes in the early industrial age, is obviously about to hit the social fabric with its full impact. Besides the pressure to lower costs, *security work* today is subject to - as other industrial or informational work - a constant process of rationalisation. The prevailing principle of organising modern rationalisation consists of the imperative to substitute human capacities by machines, wherever this is possible and cost-effective. Therefore it is evident, that the *privatisation* of security work is only one side of the general process of reconfiguring policing procedures. The rapid spreading of police and surveillance technologies, like CCTV-systems, electronic monitoring of offenders, automated fingerprint identification systems or satellite-based tracking services are indicators of the same process : the rise of a new political economy of policing and security.

#### IV - Concluding remarks about the emerging *Control Culture*

A few years back, Nils Christie described the contemporary penal system in the United States as *Crime Control as Industry*<sup>50</sup>. Stressing the fact that under current social conditions *crime* will probably have the status of an *unlimited natural resource* for the security industry, he argues : *The economic interests of the industry, ... will all the time be on the side of oversupply, both of police and of prison capacity. This establishes an extraordinarily strong force for expansion of the system*<sup>51</sup>. If this holds true, then - under capitalistic rules of growth - socially constructed demand will provide for a spreading of 'security work'. But is it enough to blame the security business ? What should a industry do which has the choice of abolishing itself (only insecure security generates money) or otherwise being actively involved in the creation of a *bunker-society*<sup>52</sup> ? If there are any doubts : from our perspective the security industry is indeed to be seen as an industry, because it bears all of the characteristics of an industrial mode of production : obtaining resources, commercial production and marketing of goods and services for a global market. As in other industries, this new paradigm of production

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<sup>47</sup> Hirsch, Roth, 1986.

<sup>48</sup> Beck, 1986.

<sup>49</sup> Beniger, 1986.

<sup>50</sup> Christie, 1993, 100.

<sup>51</sup> *Ibidem*.

<sup>52</sup> Ocqueteau, 1993a.

creates a spectrum of jobs : low-tech, low qualified, low-paid on the one side, specialist professions on the other.

Consistent with the fact that there is an emerging global security industry, we can observe an extending *plurality* of security markets. As *fragmentation* is becoming a typical attribute of former welfare societies, it becomes more and more misleading to talk about security and safety in a global, society-wide and unitary sense. The state of safety, whether individual or collective, can be expected in future to depend (to a greater extent than in the *golden age* of the post WWII-period<sup>53</sup> significantly on people's socio-economic status. Connected to this, there is a growing tendency to draw more and new kinds of borders within society, by erecting exclusive *gated communities*<sup>54</sup>, thus leading to a hypermodern version of medieval feudalism. Of course, this gates and borders provide more opportunity for *securitywork*.

The remaining state-based delivery of security has adopted a strategy that aims more at situational, ecological and territorial than at individual and personal *control units*. The goal has changed from *producing* law-abiding and disciplined persons to creating *safe areas* and sites of living, working, consuming, travelling, *leisurering*, etc. This seems to be one central aspect for modern preventive security policy.

For what might be called the *control culture* of socio-economically divided *risk-societies*, the overall impact of these processes surely brings with it a kind of *resurrection* of a regulatory system that existed before the modern regime of the *rule of law* - with extended competencies and intervention rights for the police, with the co-existence of public and *private* actors in the area of public safety, with differential access to the good of security, and with differential standards and criteria for the way in which security and public safety is delivered.

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<sup>53</sup> Hobsbawm, 1995.

<sup>54</sup> For an informed and committed description of the US-example, see Blakely, Snyder, 1997 ; Flusty, 1997.

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<sup>53</sup> Hobsbawm, 1995.

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