3 Neofeudal Aspects of Brazil's Public Security

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A subtle but perhaps profound shift in the study of Brazilian public security is underway. The dominant scholarly tradition has detailed authoritarian legacies that have shaped public security—e.g., the repertoires of brutal state repression, the state institutions often seen as failing or illegitimate, and the stark spatial segregation of classes. This approach was crucial in calling attention to the institutional holdovers of authoritarianism that (in Brazil and elsewhere) undermine the justice system, weaken citizenship, criminalize the poor, and give rise to repressive styles of policing.

More recent studies of public security tend to portray contemporary urban Brazil as increasingly fractured and stratified by privately secured spaces as well as being webbed together at the political level by networks of corruption and criminality. The notion of "authoritarian atavisms" is becoming less useful, while the idea of neofeudal power structures explains more. Here I use *neofeudal* loosely and generally to refer to various theories that identify growing extra-legal violence, shrinking spaces for public life, the privatization of security, and the absence or illegitimacy of state presence in many areas as alterations in the power relations that determine the Brazilian public security situation.

This shift in focus may lead to a better understanding of how public security and power dynamics have developed in the past 25 years in Brazil. Ultimately, it may also lead to an approach that relies less on the notion of authoritarianism to explain the deficiencies and maladies that plague the developing and modernizing world in an era of prevalent democratization, globalization, and fractured state boundaries. Instead, a more powerful explanation may rely more on relationships among transnational corporations, social networks, private enterprises, and criminal organizations in the context of weakening state control.

Three core problems with the Brazilian police—brutality, corruption, and ineffectiveness—undermine confidence in democracy and degrade the value of it.[1] Analysts have long placed blame for these problems on severe social and economic stratification, the durable legacy of authoritarian regimes (most recently, 1964–1985), the lack of resources and training for the police, a culture of vigilantism and violence, and ingrained racial and class prejudices. All of these factors, which range from the structural to the cultural, surely contribute to police violence, corruption, and poor performance. However, the government and the nature of federalism have much to do with holding these defects in place by inhibiting reform.

Furthermore, there are at least two institutional problems that can easily be overlooked. First, there is the Janus face of Brazil's justice and security system, which projects one reality and recognizes another. Second, the increasingly institutionalized criminal and extra-legal organizations in Brazil have formed networks that embed the entire public security system in connections that weaken its independence and authority. On the first point, one can identify a fundamental institutional paradox that slows progress toward democratic policing. In Brazil, as in many countries, there is the proper way the law is supposed to be enforced on the one hand and the way that justice is commonly meted out on the other. These contradicting realities coexist in Brazil with remarkable resiliency, starkness, and severity—a fact that merits special attention and a term for the phenomenon, "institutional duplicity."[2] On the second point, criminal networks have become so strong, wealthy, embedded in *favelas* (Brazilian slums) and into rich society, not to mention armed to the teeth, that they affect public security institutions by corrupting them and depleting them of legitimacy. One cannot understand the dynamic of crime and public security responses to it without considering the dynamic that I call neofeudalism, in which corrupt groups and organized criminal organizations both reap the benefits of disorder and cripple the ability of the state to maintain order.

Institutional duplicity grows out of dichotomies embedded in the Brazilian justice system: Written rules and regulations do not permit police to achieve the goals and expectations that are placed on them; police mandates outstretch their capacity; the political system is expressly egalitarian but overlays a socioeconomic system that is extremely hierarchical; and multiple agencies share responsibility for law enforcement, often leaving no single agency accountable. Often the prescribed means do not lead to the intended ends, so detours and shortcuts are invented to subvert the system; the shortcuts then stay in place and the two systems—one legitimate, the other illegitimate—operate side by side. The result is a confusing justice system, which serves different people differently, conceals commonplace corruption, and is inefficient and resistant to reform.[3]

However, institutions that are accountable to civilian authorities are precisely what is needed both to improve public security (Agüero, 1997; Frühling, 1998; de Mesquita Neto, 1999) and to consolidate democracy in

the region (Dominguez & Lowenthal 1996; Linz & Stepan, 1996; Ungar, 2002). Given the waves of crime and police violence that swept the country with impunity in the 1990s, it would be easier to marshal evidence showing that the arrival of democracy has degraded more than improved policing in Brazil.[4]

So if democracy did not improve public security on its own, the pressing question is the reverse: Can a more transparent, accountable police system be used as leverage to achieve a deeper, consolidated democracy?[5] The evidence for optimism from Brazil is that as civil society groups have gained a more mature and informed understanding of police institutions, they have proposed and implemented practical reforms and improvements. In the last 10 years there have appeared civilian complaint centers (*ouvidorias*), community policing programs, less repressive municipal police services, some functional unification of police forces, witness protection programs, and police stations staffed by and attending to women, to mention a few prominent reforms. These innovations have aimed not only to improve the justice system but also to expand citizenship, and though recent, many reforms have been credited with increasing transparency, responsiveness in government, and the public's sense of participation. The future of policing, crime control, and perhaps democratic consolidation may be chartered by civil society experts and reformers who are engaged and well informed.

This chapter starts with a historical overview and analysis of institutional arrangements of the police, from the meta- to the intrainstitutional features. After defining the Brazilian police, the chapter takes a critical look at the public security apparatus in the context of crime, violence, human rights abuses, organized crime, and the growth of uncivil society. The concluding section uses the thus elaborated institutional framework and context to consider the police reforms that have been implemented or proposed. Throughout this analysis, three outstanding features of the Brazilian public security system are stressed: the nature of federalism, the presence of ingrained institutional duplicity, and the influence of privatized security and criminal organizations that generate a type of neofeudalism.

Brazilian Institutions and Public Security

From the end of the 1970s through the 1980s, Brazil, like most countries of South America, underwent a democratic transition; the transition achieved the basic democratic benchmarks: the legalization of political parties, the popular vote, the end of censorship, and freedom of labor union activity. However, the justice and public security sectors—also essential for democracy—lagged behind.

Part of the reason for Brazil's inability to revamp its police forces is its political structure and size. Brazil contains roughly 180 million people and almost half of the land area of South America and as a federal democracy

consists of 26 states and one federal district. The job of policing this vast territory has, for the most part, always been delegated to the states. The 1988 Constitution neither unified police forces nor facilitated further decentralization; instead, it made some of the contradictory or dysfunctional traits of the policing system harder to charge. Brazil exhibits a strong type of "demos-constraining" federalism, which means that reforms at the national level are difficult to pass if a small minority resists them (Stepan, 2000). A number of constitutional amendments have been proposed, typically to unify police forces or make them more accountable to civilian authorities; all have failed due to a strong police lobby or conservative elements in smaller states.[6]

To understand what demos-constraining federalism means at the federal level, one must begin with the fact that Brazil's political parties are nonprogrammatic, inconsistent, and numerous, and they vary over time and from state to state. Thus the policy lobby does not behave like an ordinary interest group, because they are the opposite of political parties. The policy lobby has few ostensive leaders, and it requires little political organization, because its rank and file are already organized, informed of relevant legislation, and reasonably united in their agenda. Police institutions—particularly the rigidly hierarchical military police—are explicit that they oppose unification, infringements on rights and privileges, and civilian trials for police officers (all reforms that are explained below). Further, police threats are not considered empty in Brazil, because police have used their power to disrupt: Police strikes, though illegal, have crippled various states over 60 times since the 1990s and have often resulted in the military being called in to control order. As a result, elected officials rarely admit that the police lobby influences them. Yet reform does not pass. Legislators demonstrate their shades of allegiance or compliance not through discourse or action, but by *not* acting.

Moving to the state level, where the police are organized, managed, and funded, Brazil's federal institutions do not help reform efforts. Governors ostensibly control the police by appointing a Secretary of Public Security (SPS) to manage policing. However, despite a governor's power to appoint and remove officials and control their budgets, the police institutions enjoy a great deal of autonomy because of their constitutional protections (explained below), which they use strategically. Because the police are insulated, armed, and constitutionally protected, and because their cooperation is necessary to achieving core parts of any governor's agenda, they feel emboldened to wait out governors or an SPS that they do not agree with. Police know (and admit) as much (Salles & Lund, 1999). Rather than bend police to their will, governors must strike compromises and develop working relationships with police departments. They do not simply command them. Nor do the Secretaries of Public Security. There is frequent animosity (or at least, institutional competition) between the civil police and the military police. The leadership personnel of the former are trained lawyers, while a militarized hierarchy leads the latter. Thus, an SPS drawn from

either corporation has difficulty uniting the two groups. To avoid that bureaucratic loggerhead, the chosen SPS might be a public prosecutor or a retired army official instead. Yet in such an instance the SPS runs the risk of becoming a marginalized figure that knows neither institution well. For all these reasons, it is necessary to take an institutional look at Brazilian public security arrangements.

Primary Police Institutions

Brazil's primary public security institutions are its police, most of which are required by mandate of federal law but organized at the state level. There are two main types—an investigative police force and an ostensive police. Additionally, there are multiple municipal guards (which lack special arrest or investigative powers), two federal forces, and firefighters who also fulfill public safety functions. These forces are presented in Table 3.1, and this chapter analyzes them from a variety of perspectives: constitutional, historical, intra- and interinstitutional.

Each state (including the federal district) has a civil police for judicial investigations and a military police for maintaining order.[7] These organizations are considered "half polices" by some, because the civil police (PC for *polícia civil*) investigate possible crimes and the military police (PM for *polícia militar*) are charged with suppressing and preventing crime, but the activities involved in investigating and controlling crime are not made to coincide. In fact, the Constitution of 1988 requires each state to have these two functionally and organizationally different police forces, but the federal government does not require mechanisms for the PC and PM to share information, resources, planning, or jurisdictions. As a result, the dual police system has created divergent command systems, pay scales, and rules that regulate conduct. Infamous rivalries, competitiveness, and conflicting institutional cultures often further complicate the ability of the PM and PC to work together. This functional duality has exacerbated the problem of institutional duplicity by impeding cooperation and doubling the number of police institutions needed.

Military Police

The 27 corporations of the PM form the largest, most visible type of police force in Brazil with 450,000 officers. The state of São Paulo alone has at least 89,000 military police officers; the states of Rio de Janeiro and Minas Gerais both have over 40,000. The military no longer commands them, but the PM still composes "an auxiliary and reserve force of the Army."[8] This specific responsibility to support the military, though unused, still significantly affects policy, training, and ethos. For instance, the PMs are structured internally according to a military model in which there are

Table 3.1   Police Forces of Brazil

Government Level and Number of Forces	Main Police Forces and Attributes	Personnel (estimate)
Federal (2 forces)		16,000
1	Federal Police (PF)	8,000
	Few in number, highly trained, less corrupt, overextended; responsible for border and immigration control, federal crimes, protection of sensitive areas and important officials.	
1	Polícia Rodoviára (Highway Police)	8,000
State (54 forces)		600,000
27	Military Police (PM)	450,000
	Ostensive, order-maintenance policing; numerous, well-armed; some military training.	
27	Civil Police (PC)	150,000
	Investigative or judicial policing, plain-clothed, have legal training.	
Local (357+ forces)	Municipal Guards	60,000
	Provide security in public parks, schools, and transit; increasingly common in larger cities; generally lack firearms; have few powers, but are the focus of police developments given their proximity to citizens and less violent history.	
Total police forces by jurisdiction: 415+	Total police forces by type: 5	Total police personnel: 676,000

SOURCES: Mariano, 2004; Proença, 2004; de Souza Leal, 2004. Estimates are used, because the actual numbers constantly fluctuate, due to turnover and expanding police forces.

two main hierarchical domains—officers and soldiers (*oficiais* and *praças*) (Lemgruber, Musumeci, & Cano, 2003). As often follows in such bureaucracies, the fundamental values transmitted in regulating conduct are those of hierarchy and discipline.[9] Also, the PM frequently create elite units to deal with specific types of crimes or problem areas, a tendency that has much in common with the military. Further, the PM inherited from the military an excessive number of ranks (12, to be exact) that makes advancement very difficult and creates an elite group of insulated and well-paid brass at the top.[10] In short, the Brazilian approach to policing has created

a structural dichotomy within the PM: It performs a civil function with a militarized institution.

Civil Police

The PC are considered judicial police forces, because they carry out investigations of crimes (except those committed by the PMs) under the supervision of the courts and the attorney general (*Ministério Público*). The PC's function is to establish causal connections between the crime, the circumstances, the perpetrators, and the accomplices. The PC also assemble crime reports; perform arrests, seizures, and searches by court order; and manage grossly overcrowded jails and holding cells. In theory, they do not patrol the streets in uniform or do ostensive policing, though this too is an example of institutional duplicity.[11] Much about the PC is dated. For example, most forces were formed during the First Republic (1889–1930); the Penal Process Code (*Codigo de Processo Penal*), which dictates the PC's functioning, has not changed since 1941. A major problem is the paralyzing weight of bureaucratic duties due to the legally mandated *inquérito policial* (formal police inquisition). It has been blamed for contributing to low morale, inefficiency, corruption, and the brutal extraction of confessions (Lemgruber et al., 2003).

The PC constitute the second most important of the police forces, because they are fewer in number and more dependent on other public officials than the PM. Nationally, there are roughly 150,000 members of the PC. Of these, a good estimate is that there are 10,000 *delegados* or high-ranking officials (a *delegado titular* is a chief of a precinct); the rest include investigators, detectives, specialists, and clerks. In many states, all *delegados* have law degrees, which confer a higher status in Brazilian society, but the competitive hiring process with new educational requirements has not yet cleared out a very stagnant body of personnel in other states: Despite the new law, it is estimated that nationwide only 60 percent of delegados have bachelor's degrees in law (Mariano, interview, 2004).

Federal Police

The PF (Polícia Federal) are few in number and overloaded with responsibilities. Most estimate that the federal police personnel numbers 15,000, but the best Brazilian estimate of actual police *agents* is 8,000 (Proença, interview, 2004).[12] The PF are responsible for controlling entry and exit via land, sea, and air frontiers and ports—during a strike in 2004, they managed to slow down all international travelers because of their airport responsibilities. The PF also guards key members of the government, foreign diplomats, and major federal government installations throughout the country. Officials who have received death threats—even from other police forces— are often placed under the protection of the PF. This relatively small force is also charged with finding and destroying hidden airfields, controlling

territorial and crime problems with native groups in the Amazon, and investigating sophisticated financial and political crimes. With passport and other bureaucratic duties occupying much of their time, the PF's efforts to control corruption and contraband (arms and drugs) may be pushed onto the back burner, making it easier for organized crime to act with impunity.

Besides protecting Brazil's territorial integrity and public officials, the PF is responsible for managing national security threats. In this capacity, it liaises with international police organizations, including Interpol. The PF provides a central intelligence collection and disseminating service for the various state police forces. In many respects the work of the PF parallels the activities of the Federal Bureau of Investigation (FBI) in the United States. The PF maintains specialized units, such as the Division of Organized Crime Control and Special Investigations (*Divisão de Repressão ao Crime Organizado e Inquéritos Especiais*—DECOIE), which specializes in financial crime; the Tactical Operations Command (*Comando de Operações Táticas*—COT), a SWAT-like force officially formed in March 1990 that has over 50 agents trained in hostage negotiation and rescue, tactical operations such as rapid entry into aircraft and buildings, and of course special weapons training and sniper-shooting; and the Antinarcotics Division (*Divisão de Repressão a Entorpecente*—DRE*),* which works mainly to intercept illegal drugs sales and drugs in transit. A unique institutional trait of the PF is that the marshals (high-ranking officers of limited number) can form these special units and divisions ad hoc and informally, and very little hierarchical control or approval is needed. The adaptability and the public confidence that the PF enjoys is unique among Brazilian police. Ironically, despite their solid reputations, the size of the PF remains limited due to trepidations about a centralized, federal police amassing too much power, as happened during authoritarian periods.

Municipal Guards

The *Guarda Municipal* is a low-key type of public security force that exists in more than 357 of Brazil's 5,561 municipalities.[13] The characterization of the municipal (or civil) guards as less extreme than the PMs is reflected in their training, weaponry, powers, deployment, activity, and pay. If armed, they typically carry only a nightstick and a radio or more rarely a 38-millimeter revolver. They earn a salary of R$700–800 a month (about US$250–275). On average, training lasts four months. The municipal guards patrol parks and schools and in that sense relieve PMs of some basic order maintenance policing.

Other Forces

On the state level, the departments of *bombeiros* perform functions that include fighting fires, so these services are usually translated as "fire departments"; however this definition leaves out a variety of public safety and

civil defense services they provide. For example, in most states bombeiros respond to emergencies such as floods, bomb threats, crowd control for special events, collapsed buildings, rescue operations, and natural disasters—typical police responsibilities in many countries. If there is not a specific suspect to apprehend or a crime underway, the PMs often do not respond to emergency calls, leaving the bombeiros to attend to many public order and safety problems. Many departments of bombeiros are being separated from the PM, into which they had been incorporated; currently, 16 of the 26 states have independent bombeiros.

Other forces at the federal level do policing, but they are either very new or very limited. The National Secretariat of Public Security (SNSP or SENASP—*Secretária Nacional de Segurança Pública*) announced the creation of a National Guard (*Força Nacional*) on August 5, 2004. Luiz Fernando Corrêa, national secretary of public security at the time, announced that 300 officers had been trained and another 1,500 would commence training by the start of 2005. So far, the troops have been recruited from the PM's special operations forces. The National Guard is meant to be deployed when states ask for emergency help, presumably when police strikes or serious crime problems threaten public order. It is almost certain that their first deployment will be in Rio de Janeiro, where the governor has already requested federal help in battling drug traffickers. The forces will be under the command of state authorities. They will wear symbolically important black uniforms like the Tactical Operations Troops of the PF. Two other small, federal, law-enforcement agencies include the federal railway police and a dock police force that guards warehouses and other infrastructure at national ports.

Meta-Institutions: The Current
Police System in Federal Law

The police system is needlessly burdened with dualities, some of which are embedded in the Constitution. Besides the bifurcation of police activity into two "half polices," there are three other dualities: First, the PC and PM have national-level protections and mandates, but state-level control, funding, and organization. The Constitution defines policing as a state-level responsibility, while national laws and norms dictate the structure and disciplinary systems of the police. In short, indirect control of the police is centralized, yet direct control is decentralized to the states. This duality of control burdens the police with multiple political masters and impedes reform in the following specific ways: Given that the state-level PM and PC represent about 97 percent of the public security system in terms of personnel,[14] and the states lack the exclusive power to reform and regulate these police forces (and, as mentioned above, the national government has proved crippled in doing so), it seems the nation's main public security forces remain disturbingly insulated from interference by elected representatives.

The second duality is that the 1988 Constitution sustains institutional duplicity by cementing a confusion of policing responsibilities. The responsibility for criminal investigation falls both to the federal and civilian police (Article 144, paragraphs 1 and 4). Order maintenance and crime prevention is the job of the PM (Article 144, paragraph 5), but the armed forces also have the responsibility to guarantee "internal security" and order maintenance (Article 142). As a result, there are conflicts over power and confusion over responsibility among the police forces.

Third, the Constitution preserves an unnecessary link between the civilian-controlled police and the military. Even though the police are subordinate to state governors, the Constitution defines the police as ultimately responsible to the army.[15] The police also won the guarantee of a privileged forum for the trial of police officers. Before 1988, only a few states had military tribunals. With the current Constitution, any state with more than 20,000 active military police officers is authorized to create a State Military Court (Article 125, sections 3 and 4). The upshot is that for an official of the PM to lose his or her job for administrative misconduct or crimes, only military courts and, in effect, commanding officers can order dismissal. As a result, military police officers are—in terms of responsibility to civilians and public officials—the most insulated public servants. The policing system that emerges from the Constitution is confused, insulated, military-minded, and difficult to change.[16]

In sum, when Brazil became a democratic republic again, it adopted a throwback police system that solidified the decentralized structure, functional duality, and complex legal authority in which conditions for corruption and ineffectiveness are fertile. The police have privileges, protections, and overlapping responsibilities in the national ambit yet come under decentralized control at the state level. They are militarized and resistant to change. They are bifurcated into functionally distinct and often redundant and uncooperative police forces whose responsibilities are intertwined without being shared. Paulo Sérgio Pinheiro, not only a noted Brazilian political scientist but an expert on human rights and policing, summarized that the 1988 Constitution reinscribed the repressive apparatuses that were formulated during the dictatorship by reinscribing what the military governments had put into practice, creating a clear continuity in place of a true transition (1994). In other words, though the rules for policing have changed, most of the institutions, mechanisms, and systems for how policing is actually conducted have not changed.

Historical Development of Police Institutions

Most historical analyses of the Brazilian police imply that a sort of ineluctable path-dependency has produced the dire situation of today. Given the enduring patterns of abuse, impunity, and inefficiency, it is easy to see why. Both the ostensive policing that the PM conducts and the PC's

investigative practices developed over more than a century and a half. But rather than point to such facts as evidence of cultural continuity or unresolved class conflict, which they may be, I focus on the institutional practices and relationships that became embedded over time.

The PM grew out of a national force that operated in the nineteenth century to protect ruling groups. In the imperial period (1822–1889), Brazil's primary police force was the National Guard (*Guarda Nacional*). Created on August 18, 1831 (reformed significantly in 1841) and composed only of voting citizens (those who earned a minimum income), the National Guard's main function was to repress a majority population of socially and economically excluded people—slaves, former slaves, native people, racially mixed, and other poor groups. The National Guard was organized separately within each province (what would become "states") and used brutal and racist tactics of suppressing disorder. As their size and influence grew, the National Guard forces came to rival the army. So, principally after 1841, the imperial government assigned the army to protect borders, put down revolts, and maintain general stability; the National Guard was left to protect ruling groups and public spaces (Fausto, 1999).

Other inchoate police forces took shape. The Ministry of Justice appointed a chief of police in each provincial capital; parishes and municipalities then had deputies and subdeputies who took on duties as "justices of peace" (Fausto, 1999). These men investigated and, in some cases, tried and sentenced criminal cases. In this sense, they were forerunners of the PC. The imperial government created the Municipal Guards (*Corpo de Guardas Municipais*) in the capital city, Rio de Janeiro, also in 1831, and permitted other provinces to do the same. Many cities followed suit, including São Paulo in that same year. Finally, the provinces developed their own Public Forces (*Forças Públicas*) much in the mold of the National Guard, to protect their own interests and in some cases their sovereignty.

Important traits formed during the imperial period inform the present day policing situation (Mariano, interview, 2004). First, competition between national and provincial powers was a major factor, because the National Guard and state-level Public Forces competed against each other in terms of loyalty and active strength; this state-federal tension persists today. Second, the imperial period inaugurated a "judicial policing" approach in which the chiefs of police, responsible to judges, conducted investigations with an "inquisitorial approach" that easily gave way to torture. Third, order maintenance policing was conducted by armed forces, and therefore ostensive policing became associated with the structure, rules, disciplinary approach, and strategies of military institutions; these police were prepared to confront internal and external "enemies" rather than "citizens." Those same police are not around today, and it is unclear if their ethos is, but their titles, techniques, and divisions still are. Also, following from the second and third points, it is notable that the bifurcation of police activity developed early on and never ceased.

Over the course of the First Republic (1889–1930), the task of ostensive policing remained a state-level activity and, depending on the state, was divided among Public Forces and Municipal or State Civil Guards. The Public Forces grew significantly. For example, in São Paulo the force started with 3,940 officers in 1891 and reached 14,079 in 1924; French advisors were contracted to help train and structure the police in 1906. They developed an infantry, an artillery division, a cavalry, and, by 1926, even a small air force. On the other hand, a State Civil Guard was created in São Paulo on October 22, 1926, to conduct ostensive policing of a nonmilitary variety (Mariano, interview, 2004). By 1964, São Paulo's Civil Guard had 15,000 officers.

Authoritarian regimes left durable legacies on the Brazil's police institutions. During the era of the populist dictator GetúlioVargas (1930–1945), police operations became centralized and militarized, because the police were used to suppress dissent and maintain order. Nonmilitary ostensive policing began to disappear, along with the potential for the state's sovereignty. With the death of Vargas came the ascension of Juscelino Kubitschek, the election of Jânio Quadros, and the brief government of João Goulart. After this mostly democratic reprieve, public security arrangements abruptly changed again under the bureaucratic authoritarian federal government of 1964–1985. It became especially severe after December 13, 1968, when Institutional Act 5 dissolving the Congress was handed down. Civil Guards and Public Forces around the country were merged. Decree 1,072 of December 30, 1969, extinguished Civil Guards in 15 states and annexed them to state military forces.[17] This fusion resulted in the end of the Civil Guards and Municipal Guards (though these were to be reincarnated later) and in the creation the Military Police. The ruling military apparatus then placed the PM under the direction of the Ministry of the Army (Law Decree 667/69, Article 1).

Thereafter, two changes had an enormous impact on policing: The federal government assigned the responsibility of maintaining order to the PM—a responsibility that had been previously shared by a uniformed and active PC (Law Decree 667/69, Article 3; Law Decree 1,072/69). Second, the military exerted greater influence over the PM by creating a special army division to oversee the PM and by appointing military officers to direct the PM and to the state secretariats of public security. As a result, the PM became stronger, singular, and more militarized.

Interinstitutional Problems With Public Security

Taken together, the weaknesses in the justice and public security systems mean that Brazil lacks a coercive state apparatus to protect the rights of the general population (Linz & Stepan, 1996; Stepan, 2000). A state cannot have a coercive apparatus without a law enforcement system, which requires the core institutions of public security to cooperate. As a meta-institutional

matter as argued above, the Constitution impedes the ability of the PC and PM to work together. Though that dysfunction manifests itself as an interinstitutional problem, it will not be repeated here; instead this section highlights two other problems: the involvement of the military in policing operations and the difficulty police have in working with the courts.

Relations between the military and the police are a traditional focus of concern in developing democracies. But in that context Brazil is a relatively stable and advanced democracy, and it does not provoke many worries about the military taking over the well-entrenched and sizeable police forces. On the other hand, the armed forces have never been entirely removed from policing operations, because they may be—and have been on numerous occasions—used to preserve internal security and maintain law and order, according to Article 142 of the Constitution. Two main justifications are invoked when using the military in public security: the deployment is either temporary or exceptional (or both). Due to a wave of police strikes starting in the mid-1990s, President Fernando Henrique Cardoso deployed armed forces to control order in a number of states, even though the troops had no arrest powers. Armed forces have also been used in response to "exceptional" crime problems—perhaps most famously in Operation Rio (from November 1994 to May 1995). This joint operation of the armed forces and state government involved controversial invasions into the favelas (or *morros*, the hilly, impoverished areas of Rio) in an attempt to disarm drug traffickers and interrupt organized crime. The media success of Operation Rio and subsequent statements by public officials suggest military incursions into slums and poor neighborhoods to combat arms and drug trafficking will continue. Overall, the federal government employed the military at least 50 times from 1985 to 1997 and numerous times thereafter due to police strikes (de Mesquita Neto, interview, 2004).

A key question that arises is how these cooperative arrangements will be structured. Some experts have called for ongoing arrangements in which the military would support the police in setting up blockades and checkpoints and would have judicial powers in frontier areas to better control criminal activity (Braudel Institute of World Economics, 2003). The trends indicate an interest in and a willingness to blend police and military functions, which if it continues should require legislation and demand careful planning and strict civilian supervision.

The Brazilian justice system is chronically slow and impedes the legal application of justice. The environment of impunity contributes to police brutality and corruption; the frail justice system also contributes to inefficiency, which creates incentives for people to go around the justice system, thus reinforcing the cycle of vigilante justice and institutional duplicity. Consider the fact that the state São Paulo maintains a PC of 36,000 members to investigate crimes, and there were 523,396 officially filed reports of crime in 1999, but only 84,519 police investigations were opened (16 percent of all reported crimes, which usually have a better chance of being solved than the majority that go unreported). Based on these *inquéritos*, the Public

Ministry formally processed 25,300 cases, of which 12,102 began by capturing a suspect in the act, which does not require much investigative activity. In short, only 2.5 percent of all reported crimes reached a judge as the active result of police investigations (Institute of Citizenship, 2002). Ironically, without this filter of investigative ineffectiveness, the court system would be swamped. There is roughly one judge for every 23,000 inhabitants, while the United States has one for every 9,000 (da Silva Filho, 2000).

Questions of control over public security institutions at the state level also exacerbate problems with institutional duplicity. Governors ultimately direct the police, but in most states a Secretary of Public Security (SPS) manages both forces. During the authoritarian regimes, this official would be from the military. Since the country was democratized, the selection of secretaries of public security has been problematic, as both the PC and PM bitterly resent one having "command" over the other. Therefore, an official is often selected who has no experience with either force. Further, the SPS often has little direct control over the two forces; the PM in some states are effectively insulated from the SPS. The SPS's purpose is to harmonize strategies, budgeting, and operations, yet as long as both police maintain separate jurisdictions and operate separate databases and systems of telecommunications, the SPS's capacity to do so is extremely limited, even when welcome. The result is a muddled system of political and operational control.

Intrainstitutional Factors: Internal Problems With the Police

Brazilian police institutions are frequently undermined from within by corruption, impunity, and bureaucratic privileges. These tendencies are often ill-defined and overlapping but clearly contribute to brutality and inefficiency and impede progress toward democratic policing (da Silva Filho & Gall, 1999). Institutional duplicity allows these deficiencies to persist because they are rarely confronted directly, and even reformers who would tackle such problems are often disheartened by their seemingly intractable nature.

Police corruption is a serious problem in Brazil. It not only erodes the rule of law, but police corruption is frequently connected to torture, the excessive use of force, and brutality (Costa, 2004). Petty forms of corruption (or *parasitismo*) that include petty bribes, shirking, and passive corruption (turning a blind eye) are common. More troubling for democracy, however, is serious corruption, which is evident in criminal activities so pervasive that they could not exist without police cooperation or complicity: The rise of drug trafficking; the sale not only of guns, but of heavy artillery like antiaircraft missiles and landmines; theft and robbery of vehicles; the frequent escape of prisoners; and the unstoppable network of *jogo do bicho* (a type of underground gambling) are all testaments, in their own ways, to the involvement of police in organized crime. These problems are examined

in greater detail below in the section on uncivil society (Braudel Institute of World Economics, 2003).

Corruption and brutality impede the application of accountability within the public security institutions. Neither the judicial system nor the internal disciplinary systems of the police effectively punish individual police officers, and this creates the problem of impunity. There is some confusion about what agency should exercise responsibility for oversight of the PC and PM. The *Ministério Público* (translated with some ambiguity as the public prosecutor's or attorney general's office, but here as the "Public Ministry") is ultimately responsible for investigating and trying cases of police misconduct, but the Public Ministry is not fulfilling this function (Global Justice, 2003). Some blame ambiguity in the 1993 law (Institute of Citizenship, 2002). At least 10 states have developed *ouvidorias*, or external civilian oversight offices. *Ouvidorias* have proved very effective (in most states) in increasing transparency of police operations, tracking trends of police violence, exposing serious problems, and involving civil society in police planning; however, despite having the ability to "follow" the investigation of police abuse cases, *ouvidorias* cannot investigative or impose accountability on individual police officers.

Internal discipline is the responsibility of *corregedorias*, the Brazilian version of internal affairs offices. In some states, like Rio de Janeiro, there is a corregedoria for both of the police departments and a third, recently created "unified" corregedoria that takes over some investigations from either the PC's or the PM's corregedoria. Crimes and misconduct are supposed to be investigated and handled by corregedorias, whose resources are limited (in terms of budgets, manpower, and geographic reach) and whose procedures are not transparent. Alleged crimes are investigated by members of the same force accused of committing them, often in the very same precincts (*delegacias*); then the cases are tried in special courts. For instance, crimes committed by the PM (except murders, explained below) are sent to military tribunals, which have earned a paradoxical track record by throwing out cases of homicide and severely punishing disciplinary matters such as desertion and insubordination.[18] This is partly explained by the authoritarian regime's legacy: Internal control systems of both police forces were used to maintain hierarchy and discipline. This tendency was marked in the PM, but it affected the PC as well. To this day it is much more likely that a PM officer will be punished for not having shined shoes than for using excessive force to detain a suspect.

Investigations of the most severe forms of police brutality—murder and torture—have only recently begun to approximate principles of democratic policing. The public court system (*Justiça Comun*) cannot try cases against PM officers. However, in 1996, a federal law was passed to make an exception in the case of murders committed by police officers.[19] Further, torture was finally defined as a crime in 1997.[20] Impunity persists, because the two police forces tend not to characterize the crimes of torture or homicide as such. In the case of torture, investigations are often opened as a case of

assault (*lesão corporal*) or not opened at all, alleging lack of evidence of a crime or lack of evidence of the authorship of the crime. In the case of homicide, the tendency is to open an investigation into a crime committed by the victim and a case of "resistance to police action followed by death." Since "resistance to police action followed by death" is not a legally defined crime, homicide can fall under this category and escape investigation. This practice, as confirmed by recent research of the police ombudsman, is frequently tolerated by the Public Ministry and the judiciary, and it contributes to the closure of investigations and to the failure to initiate judicial proceedings in cases of homicide committed by police officers.

The policing system is beset by bureaucratic dysfunctions. The retirement system demonstrates the weight that bureaucratic privileges put on the policing system. Approximately two-fifths of the budget for the Secretary of Public Security of São Paulo is spent on retirees. The PM of São Paulo alone supports about 35,000 retirees, or almost one for every two active service members. The privilege of higher-ranking officers is a significant factor here: It is easier for them to retire at a higher salary, so that São Paulo has 1,400 active first sergeants and 14,000 on pension. There are 53 active colonels, while 1,000 receive pensions. Also, active police are deployed in positions that nonsworn personnel fill in many other countries, such as cooks, barbers, and pharmacists. For reasons of military esthetics, 11,000 police officers (including 620 musicians) of the PM of São Paulo fulfill tasks irrelevant to policing. Possibly 25 to 30 percent of active duty PMs never hit the streets (Mariano & Bicudo, 2004).

Training and education of the police are widely considered to be a cause of police-society conflict. Experts agree that education is lacking and training is excessively militarized, which conditions police officers to "engage enemies" rather than "serve citizens" (see Costa, 2004; Mariano & Bicudo, 2004; de Mesquita Neto, 1999; de Mesquita Neto, interview, 2004). Proposed reforms center around providing continuing education and training, teaching human rights and citizenship, and extending formal education requirements. Though government increasingly demands higher educational standards, civil society is assisting, because funds and innovative ideas are limited.[21] Such strategies do not replace the specific training that could be provided by a police academy, but they are intended to raise the educational level of the police forces while diminishing the social stigmatization and segregation that can lead to conflict. Other reforms under consideration would create a single National Police Academy to develop a cohesive curriculum for all police officers. As it stands, training varies from state to state and police force to police force. The PM's training reinforces military values of rigid discipline, centralization of decisions, emphasis on special or tactical units, and an aggressive approach to confronting an "enemy" (da Silva & Gall, 1999; de Souza Leal, interview, 2004). The training for the PC is largely absorbed with the technical details and proper mechanisms for undertaking an *inquérito policial* (specialized police investigation) as defined in the penal process

code, which most observers consider outmoded and burdensome (Costa, 2004).

In terms of strategy and deployment, the police of Brazil utilize approaches that are almost exclusively reactive and suppressive rather than proactive and preventive. There are signs that this is starting to change as the PM in most states have some type of community policing programs in place. But isolated community policing programs will not necessarily "put more cops on the street" or put them in better touch with society. Further, preventive policing achieves less of its potential impact in Brazil than elsewhere, because resources that might be applied to assign officers to the street are instead applied to maintaining an excessive number of ranks, hiring military cooks and barbers because of the preoccupation with military esthetics, and providing special privileges for public officials. Cutting useless bureaucracies and outsourcing tasks to nonsworn personnel would increase police presence and allow preventive policing to be more effective.

In terms of pay and benefits, there are two outstanding features: disparities and shortfalls. There is remarkable disparity between different ranks, states, and police forces in terms of what police officers earn; also, today police are underpaid, whereas previously they were absurdly underpaid. In recent years, the police have received salary hikes in most states. This followed a wave of police strikes and demonstrations in 1996–1997 and 2002. Strikes by the police, which are constitutionally forbidden, are overt examples of problems that low pay causes. Less tangibly, low pay also makes police officials more susceptible to corruption and bribery, and many are compelled to work second jobs (*bicos*) to support their families. These illegal and dangerous jobs, usually in the clandestine security sector (discussed further below) tire police officers and frequently deplete their ranks: The Ouvidoria of São Paulo found that out of every 10 police officers that were killed (including in traffic accidents), 8 died while off duty, likely working their second or third jobs. The chart in Table 3.2 is based on 2001 data from selected states and lists monthly salaries in the Brazilian currency (the *real*) followed by a U.S. dollar estimate, which includes *gratificações* (or "benefits," such as health insurance and travel allowances).

Context of Public Security Problems: Neofeudalism

An institutionally duplicitous environment, as described above, creates the following paradox: There is a revered legal mechanism to achieve something, and then there is the way it actually gets done (Muniz, interview, 2004; Proença, interview, 2004). The hierarchically rigid fiefdoms of Brazilian bureaucracy are ventilated by shortcuts to or diversions from justice. Police death squads, which persist today, provide a horrifying example of shortcuts to vigilante "justice" (Caldeira, 2000; Huggins, 1998). Investigations that rarely yield enough evidence to prosecute crimes against the poor serve as a more common example of diversions down dead ends; as

Table 3.2 Selected Monthly Police Salaries in 2001

| | Civil Police | | | | Military Police (increasing ranks) | | | | | | | |
| | Detective/ Investigator | | Delegado | | Soldier | | First Lieutenant | | Captain | | Colonel | |
State	real	$	real	$	real	$	real	$	real	$	real	$
Alagoas	550	196	4,000	1,429	464	166	1,063	380	1,612	576	3,657	1,306
Bahia	689	246	1,653	590	764	273	963	344	1,259	450	1,758	628
Federal District	3,009	1,075	6,480	2,314	1,250	446	2,950	1,054	3,500	1,250	NA	NA
Espírito Santo	800	286	2,000	714	300	107	NA	NA	NA	NA	NA	NA
Goiás	905	323	4,204	1,501	650	232	1,384	494	1,822	651	4,980	1,779
Pará	770	275	2,611	933	557	199	1,228	439	1,609	575	2,422	865
Paraná	728	260	6,031	2,154	558	199	2,012	719	3,779	1,350	5,594	1,998
Pernambuco	773	276	3,183	1,137	803	287	2,020	721	2,850	1,018	4,360	1,557
Rio de Janeiro	1,100	393	3,600	1,286	500	179	1,810	646	2,155	770	4,112	1,469
Rio Grande do Sul	644	230	4,800	1,714	524	187	1,259	450	1,674	598	4,172	1,490
São Paulo (city)	894	319	1,750	625	757	270	1,750	625	4,264	1,523	5,962	2,129

NOTE: It is important to keep in mind that because of exchange rate fluctuations, consistent inflation, the ambiguity of what constitutes a "benefit," and pay raises of almost 50 percent in some states, these numbers are not accurate. They are meant to give a general idea of police salaries. Data come from secretaries of public security and police unions and were published in *Folha de São Paulo*, p. C1 (July 22, 2001).

a result, people living in the impoverished favelas often seek justice from local crime bosses rather than from the police. The cumulative result is cynicism and lack of confidence in the police, which only makes their job harder when they try to do it properly.[22] Institutional duplicity, like the old expression, *para inglês ver,* is a tacit situation that can both explain and cause stagnancy.[23] This stagnancy not only slows institutional progress toward a model of democratic policing, it distorts other aspects of public security.

This section briefly explores how policing interacts with the Brazilian context of public insecurity. A major paradox has been that the return to democracy coincided with the increase in violent crime and the spread of criminal organizations (Pinheiro, 1994; Zaluar, 2000). Nor has the fear of crime subsided. In search of ever more security, urban Brazilians have built fortified enclaves for homes and offices that are strewn with barbed wire and surrounded by fences, cameras, and guards; these built structures, as physical reminders of hostility, seem to justify the paranoia that built them (Caldeira, 2000). On average, crime, criminal organizations, the fear of crime, violence, and violent responses from police have all risen over the past 15 years; all of these problems involve the police.

Moreover, there has been stark spatial segregation at the urban level, and increased networking among criminal groups at the transnational level. Feudalism, as an economic and political order, can be characterized by the decentralization of political authority (to lords and barons) in the midst of globalizing forces (such as mercantilists and the Catholic Church) and the use of brutality to extract rents and raise armies. In neofeudalism, mafias, private armies, and barons of international trafficking also collect tributes, administer justice, and muster soldiers from the squalid territories that they control. Private security in Brazil is beginning to outmatch public police forces as the rich contract their own armies of security companies, often illegitimate. If this vicious cycle spins out of control, the legitimacy of the Brazilian state will be compromised, and its ability to establish hegemony, either through coercion or compliance, will be weakened. For these reasons, a dynamic that is justifiably called neofeudalism has the power to bankrupt the public security institutions of Brazil.

Crime and Violence

Crime and violent crime rates rose during the 1990s and remain at very high levels, leaving much of the populace terrorized by fear. According to the Brazilian census, the rate of homicide grew by 130 percent between 1980 and 2000, going from 11.7 for each 100,000 inhabitants to 27. For a span of 10 years after democratization (1991–2000), official data show a steady rise in intentional deaths (not necessarily homicides), going from just over 40,000 per year to just under 60,000. Of these, about 40,000, or about 88 percent of all murders, are homicides committed with guns. Murders outnumber death by diseases such as AIDS. According to one estimate, one of

every 20 inhabitants of the city of São Paulo was a victim of armed robbery in 2002; there were 1,704 such incidents daily (Braudel Institute of World Economics, 2003). In 2001, Brazil's homicide rate reached 27.8 per 100,000, based on 47,899 murders; for point of comparison, the United States is a relatively violent country, and its murder rate is usually between 5 and 6 (Lemgruber, 2004).

In favelas and poor communities in the peripheral areas, homicide rates exceed 100 per 100,000 people, among the highest in the world. In general, young, dark-skinned males are the most likely to be killed or suffer violence. In 1999 in the city of Rio de Janeiro, for every 100,000 males between the ages of 15 and 29, 239 were murdered (Institute of Citizenship, 2002). Men are much more likely to be murdered than women, yet nearly one in five Brazilian women has been the victim of violence perpetrated by a man (Global Justice, 2002). Nonetheless, the pattern is for people of African descent as well as the poor, the young, and the male to be the disproportionate victims of intentional death. The disturbing result, often overlooked by considering just demographic data, is a marked concentration of violence in areas of poverty and social exclusion (Cano & Santos, 2001). This concentration of violence, including police violence, and concomitant apathy in wealthy, privately secured enclaves, feeds the dynamic of neofeudalism.

How do police figure into this picture? First and foremost, the ineffectiveness of the police contributes to the public security problem: A May 2003 analysis of homicides in Rio de Janeiro showed that only 2.2 percent of the killers were apprehended at the crime scene, and only 1 percent of all other murders were solved by the police (Braudel Institute of World Economics, 2003). Second, corruption and brutality have allowed some areas of Brazil to develop into zones where drug trafficking, organized crime, and police violence run rampant; the reprisals and friction between police and gangs have produced geographical pockets that resemble war zones.

Police Violence and Human Rights

The history of human rights abuses by Brazilian police is well established and long. Research from the imperial period (Holloway, 1993) through the Cold War (Huggins, 1998) demonstrates a tradition of arbitrary, racist, and brutal police action that informs the present situation. The most extreme abuses are of two types: torture (committed especially by the PC in the investigation of crimes) and summary executions and aggression (more often committed by the PM). After 1990, when the first democratically elected president since the 1960s took office under the new democratic constitution, the trend of police violence rose along with violent crime in general. The numbers of civilians killed by the police in São Paulo and Rio de Janeiro reached 868 and 1195, respectively, in 2003 (Global Justice, 2003). In São Paulo that works out to an average of 2.37 citizens killed by the police each day; in Rio de Janeiro, the average is 3.2.

Widely publicized police killings in the past 14 years have increased conflict and violence between police and society: After Carandiru, the 1992 prison massacre in São Paulo that left 111 dead, prison riots are still commonplace. In Eldorado do Carajás, 19 landless workers in the state of Pará were executed by police; as of late 2003, the case has not been closed, and rural violence continues. Police killings in Corumbiara and Vigário Geral have given way to ongoing drug wars in these peripheral communities; these are marked by periodic police invasions. Many years after the infamous execution of street children in front of a famed church, Candelária, one of the mentally disturbed survivors went on to hijack bus number 174 in Rio de Janeiro, leading to more public fright, international outrage, and an acclaimed documentary ("Onibus 174"). The televised scenes of police brutality and executions in the 1997 cases of Favela Naval in Diadema (outside São Paulo) and of Cidade de Deus in Rio de Janeiro caused international outrage. Rather than foreswearing such tactics, São Paulo's PM formed yet another elite unit that performs raids such as "Operation Castelinho" that killed 12 members of the PCC ("First Command of the Capital") gang in Sorocaba on March 5, 2002.

Organized Crime and Uncivil Society

The power of drug traffickers has become a major problem, especially in Rio de Janeiro and São Paulo. Drug gangs operate with a command hierarchy capable of mobilizing well-armed "soldiers," as they are called, in the winding, hilly streets of Rio's favelas or the suburban satellites of São Paulo. Police estimated Rio drug gangs had an arsenal of 10,000 weapons in 2003. In 2004, they discovered caches that included automatic rifles, landmines, grenades, and shoulder-launched antiaircraft rockets. During the early 2000s, powerful narco-trafficking bosses, such as Paulo César Silva dos Santos ("Linho") or "Fernandinho" Beira-Mar, controlled multiple favelas and armies of more than 500 "soldiers" in their early 20s (in fact, they rarely live into their 30s); sometimes, they carried on this control from jail. Favela residents know corrupt police to be complicit in fomenting unrest when certain criminal bosses escape or are released from jail and then wage war on other gang leaders. Newspaper accounts regularly report on police officials and army officials who have been arrested for selling weapons to drug traffickers, their reputed enemies. The strength of organized crime corrupts the police institutions and escalates the level of violence.

Even uncorrupt police can indiscriminately terrorize favelas. Police violence is often labeled as an authoritarian atavism or the result of sheer savagery, but unfortunately such police officers might be responding to a "rational" desire to shore up their authority.[24] As police feel their power diminish, credible threats and violent shows of force are intended to extend their authority in regions where state hegemony is eroded.

The police seem better able to manage mutual and cooperative existence with lower-key criminal organizations such as the *jogos do bicho* (an illegal numbers game), but this so-called petty crime has led to extreme violence and has funded corruption at high levels.[25] José Carlos Gratz used funds from the *jogo* to finance control of the state government of Espírito Santo. By early 2003, Gratz was president of the State Legislative Assembly, controlled the machinery for electing assemblymen, and had appointed allies as judges and prosecutors (Miranda, 2003).

Networks of criminality, like those cited above, link organized criminal groups and the state by way of corruption. Growing evidence from Brazil, and scholarly work in general, suggests that "uncivil society" can be treated as a conceptually distinct and significant actor.[26] Uncivil society consists of organized groups that are not legitimate economic organizations, but are "rent-seeking" in the sense that they extract duties in exchange for access to the goods, territories, and privileges that they control. They reject the rules of civil society; for example, they use violence to resolve conflicts. They rarely seek to overthrow the state; rather, they seek to co-opt or corrupt it. Research on the robust spread of violent drug and arms traffickers in Brazilian slums demonstrates perhaps the strongest dimension of these networks of criminality (Arias, 2004; Zaluar, 2000). A growing set of examples includes organized criminal organizations, gangs, vigilante groups, illegal security firms, death squads, mafias, and militias.[27]

Death squads perfectly capture the problem with uncivil society and the police: Death squads can be well organized (even registered as philanthropic organizations; see below) and frequently operate extra-legally with the collaboration or complicity of the police. There are two types of death squads: the informal squads (typically off-duty police officers engaged in vigilante killings) and organized groups of on-duty police who hide their actions, not their identities. Two experts trace the modern incarnation of these two types to the mid-1960s under the ruling military regime.[28] Though the activities of torture and death squads slowed after the decline of the repressive regimes of the 1970s, groups such as Amnesty International and Human Rights Watch have testified to their presence today.

The informal type of death squad more clearly involves uncivil society. The case of *Scuderie Detetive Le Coq* (SDLC) and one human rights group that has denounced them, Global Justice (*Justiça Global*) demonstrates the civil/uncivil tension. SDLC was a death squad formed in 1964 during the military dictatorship and named after a legendary detective (Le Coq) from Rio de Janeiro. The group became legally recognized as a "non-profit philanthropic institution engaged in community service" (at least in the state of Espírito Santo, neighboring Rio), and by the 1990s SDLC had 3,800 directly or indirectly involved members (Global Justice, 2002). As street children were found dead on public streets with bullet holes in the backs of their heads, intense public pressure forced Espírito Santo to create a special commission composed of representatives from the PC, PM, and attorney

general's office. The commission found police officers affiliated with the SDLC to have been involved in the executions. The commission further found that the SDLC was connected to drug trafficking, arms trafficking, gambling, prostitution, fraud, public embezzlement at all levels of government, and coercion and bribery of public officials. Global Justice, as a civil society actor, has used its international connections (including with the Inter-American Human Rights Court of the Organization of American States) to strongly denounce the SDLC, but the SDLC is not simply a criminal organization. It is an example of a well-organized, officially recognized network of public officials, police officers, and private citizens that cannot be classified as a political party, a gang, or a part of government, and the SDLC rejects the ethics of civil society and the peaceful resolution of conflict. The conflict between Global Justice and SDLC is an instance of a contest between civil society and uncivil society over the nature of public security.[29]

Private security is another realm of activity characterized by duplicity, mixing the criminal with the legal and the private with the public. Private security firms appear as one of the fastest-growing sectors of Brazil's economy. The Federal Police registered some 4,000 private security firms with 540,334 employees in 2000; there were another 811 firms registered to provide their own security ("organic security"). However, most estimates suggest that the number of people working for unlicensed providers is easily double that: 1 million to 1.5 million, not to mention unlicensed organic security firms (Institute of Citizenship, 2002). Teresa Caldeira, a Brazilian anthropologist, traces a number of connections that implicate private security firms with criminality. For example, *justiceiros* (vigilante hitmen) hide behind the façade of private security enterprises; most of these clandestine security services employ police officers or former police officers, and many are involved with gangs and drug dealers. She summarizes: "In fact, although private and public policing may . . . look like opposites, they share a matrix of relationship and structures. In Brazil, the matrix is of unstable relationships between legal and illegal, of abuses and violence" (Caldeira, 2000, p. 206).

Besides overt connections to criminality, private security in Brazil is troubling in two other ways: the demonstrable inability to regulate the industry and the risk of deepening inequality. Most private security goes unregulated. There are approximately 25,000 guards working in Rio de Janeiro's condominiums alone, but there are only 30 authorized entities to work in condominiums (Amora, 2004). Unregistered security services can range from the simply illegitimate to the elaborately clandestine; they can serve as fronts for death squads or the more routine neighborhood vigilante groups.

At the very least, unregistered private security creates a dangerous black market with perverse incentives: Guards are regularly underpaid, undertrained, and drawn from the ranks of off-duty police officers looking for second jobs (*bicos*) to augment their small salaries. Having police officers work second jobs in private security is both illegal and widely recognized: "[Bicos] cause duplicity in functions, physical exhaustion of police troops, besides

delegitimizing the nature of public security, since public employees provide services for businesses whose interests come to collide with police functions" (Institute of Citizenship, 2002, p. 28). In addition, poor Brazilians are increasingly likely to suffer double discrimination with the unfettered growth of private security. Because Brazil has one of the largest income gaps between the rich and the poor worldwide, private security in Brazil will continue to create fortified enclaves for the wealthy. Impoverished citizens may continue to suffer disproportionately the cruelty of brutal policing as well as new forms of control and humiliation at the hands of private security.

Civil Society and Prospects for Reform

The institutional problems with the police and the broader context of criminality does damage to Brazilian society. Violent crime, organized crime, and uncivil society—especially when exacerbated by police brutality, corruption, and incompetence—undermine Brazilians' faith in their public security system. A 1999 victimization study in Belo Horizonte (the fourth or third largest and perhaps safest of the major cities) revealed that 66 percent of robbery and assault victims did not report crimes to the police; the lack of confidence was the principal reason (32 percent). Furthermore, when asked to express their opinion of the police, 39 percent of respondents said they did not trust the PM, and 46 percent said the same about the PC (Beato Filho, 2002). Such victimization studies and public opinion surveys regularly reinforce the impression that the Brazilian public has little faith in the police and that this lack of confidence impedes police work by limiting the assistance and information that the PC and PM can count on from society.

Yet organized civil society has not been a passive victim, and it has responded with growing expertise, which can be seen especially in its involvement with public security reforms that may help consolidate democracy by creating a functional justice system and by slowly bridging the disjunctive nature of Brazilian citizenship. Civil society organizations helped dismantle the authoritarian regime in the 1980s, and instead of disappearing under democracy with nothing to resist, these organizations have established "new connections between the autonomous spheres of society and political institutions" (Pinheiro, 2000, p. 134). For instance, the National Movement for Human Rights, formed in 1982, worked to set up research centers on violence in the national universities; in 1987, the University of São Paulo (USP) inaugurated the first Center for the Study of Violence (*Núcleo dos Estudos de Violência*, NEV). Throughout the 1990s, the press, nongovernmental organizations, universities, labor unions, professional associations (like the Brazilian Bar Association), and social movements have worked together to create footholds in government in the form of commissions, congressional inquiries, and ombudsmen. These modest steps allowed civil society organizations (CSOs) to gather more information

about police actions and increase the visibility of human rights problems. The National Congress created the Human Rights Commission in 1995, and between 1995 and 1997, 13 states likewise created human rights commissions in their legislative bodies.[30] Today, traditional human rights organizations like the Teotonio Vilela Commission and the *Centro Santos Dias* in São Paulo work with research centers like NEV at USP, the *Instituto Superior de Estudos da Religião*, and the Center for the Study of Security and Citizenship in Rio, and they collaborate with newer organizations like *Movimento Viva Rio* and Global Justice, also both in Rio. In this way, CSOs have been able to accumulate experiences and share knowledge through better networks—some of which, like the Third Sector Information Network, are explicitly designed for that purpose (Pinheiro, 2000).

Civil society organizations have served as a nexus for proposing police reforms, such as community policing programs, civilian oversight, and community councils on public security. Early on, Governor Franco Montoro (1983–1987) created community security councils in São Paulo (by decree 23.455 and by resolution) and women's police stations. In Rio de Janeiro, Governor Leonel Brizola (1983–1987) established a mechanism of civilian oversight called the State Counsel of Justice, Public Safety, and Human Rights, on which CSOs had a seat. Both were left-leaning politicians with significant ties to the democratic resistance. Governor Mário Covas took office in 1995 in São Paulo, was reelected in 1998, and inherited the progressive tradition of working with CSOs. In 1995 Covas created the country's first civilian oversight office of the police (*ouvidoria*) at the request of the archdiocese and staffed it with a trusted activist from the church and civil society, Benedito Domingos Mariano. In 1997, Covas launched the State Program for Human Rights, modeled after the national program inaugurated in 1996 by President Cardoso. Likewise, Brizola returned to office in 1991, restored dismantled projects, established community-oriented policing in Rio de Janeiro, and created working relationships with civil society.

Community Security Councils

Many different forms of the *Conselhos Comunitários de Segurança* (CONSEPs) have appeared throughout the country. A critical assessment is that these local, unpaid citizen groups "tend to be mere meetings to hear complaints from the populace, which always receives the same excuses [from officials]: lack of resources" (da Silva Filho, 2000). Others hold a much more optimistic view. Community forums are a related innovation that allow more input from citizens and have been credited with helping reduce violent crime.[31] Officials in the northern state of Ceará, for example, explain that CONSEPs do a number of things: put police officers in touch with citizens (which is a necessary step in community policing), resolve minor conflicts, defuse tension between groups and between police and citizens, give

citizens a sense of empowerment and participation in public affairs in general, and alert police officials to crime trends (Freitas Lopes, interview, 2004). In Minas Gerais, CONSEPs are seen as part of a paradigm shift in policing. As part of the fundamental overhaul, CONSEPs in Minas Gerais broaden the idea of police services, make it possible for community policing programs to function, develop partnerships in the community and with civil society, and allow for decentralization and regionalization of policing (Beato Filho, 2002).

Women's Police Stations

The first police station staffed mostly by women was created, by law, in the state of Santa Catarina in 1985. The state of São Paulo, however, copied the idea and created its own women's station on April 6, 1985, before Santa Catarina's capital city of Florianopolis was able to bring the idea to fruition (Global Justice, 2002). Such stations usually have male officers available, but must have female receptionists and women on staff (officers and psychologists) with whom victims can file complaints and give testimony and from whom victims can receive support. The best stations have day care rooms as well. There are 307 women's police stations in Brazil; this number is growing despite funding cutbacks. Of these, 40 percent are in São Paulo, and 13 percent are in Minas Gerais. They have been successful in raising the number of reported crimes. In 2001, women registered 334,589 cases of violence at São Paulo stations.

Women's police stations, by attending mostly to women and youth, represent an innovation in accessibility. Proponents conceived of these stations as tools to combat domestic violence and sexual assaults, because they would focus on investigating these crimes, be less psychologically and physically intimidating to female victims of sexual violence who wanted to report such crimes, and thus provide greater visibility and reporting accuracy to crimes of sexual, domestic, and gender-specific natures. Reportedly, a substantial number of women have received greater attention, have not had to suffer in silence, and have felt empowered knowing they could denounce such crimes (Global Justice, 2002). However, many activists have withdrawn support from these stations, because they provide such poor services due to lack of funding and resources.[32]

Community Policing

This approach concept calls for regular, nonthreatening contact with the members of a community or neighborhood. Typically police officers leave their vehicle and attempt to build trust with civilians; they treat citizens as partners in preventing crime. This not only reduces fear, it allows police to gain better information about criminal activities. First introduced in Rio de

Janeiro in the 1980s, this concept has now spread to virtually every state
PM department and works best when used in conjunction with citizen-
based public security councils (Beato Filho, 2002).

Witness Protection Programs

Witness protection programs led and managed by civil society allow police
to root out corruption and prosecute organized criminal organizations and
drug traffickers. This is a special concern of civil society, because witness pro-
tection involves saving the life and ensuring the rights of intimidated and
gravely threatened people—often completely innocent bystanders. In Brazil,
the provision of this service began with civil society and later received the
belated help of government. In 1995, a broad-based human rights movement
and other civil society groups formed the PROVITA *(Programa de Proteção
a Vítimas e a Testemunhas)* in the northeast. Now part of a national system,
PROVITA had protected over 500 witnesses in 17 states as of 2004 (Amnesty
International, 2005). (Another version, PROTEGE, started in Rio Grande do
Sul, but it does not rely on a civil society to function.)

Ouvidorias

Since 1995, after Brazil's first civilian oversight mechanism for the police
was created in São Paulo, the innovation of ouvidorias has spread through-
out the most populated and developed states. There are six fully indepen-
dent and fully functioning ouvidorias and another four inchoate versions.
They have created a national forum and have garnered funds from the var-
ious foundations and even the European Union to continue their project of
diffusing external oversight of the police (see Lemgruber et al., 2003).

Conclusion: In Search of Consolidation

The study of postauthoritarian Brazil has been threaded together by analy-
ses of the cruel legacies of oppressive policing, widespread impunity for state
agents, privileges for the rich, and criminalization of the poor. Historians
(e.g., José Murillo Carvalho, Thomas Holloway, etc.) and the social scien-
tists mentioned in this chapter have documented these problems and traced
their genealogies. The consensus is that the roots of this family tree extend
down at least to the colonial period. Though the most recent authoritarian
regime (1964–1985) sounded its death knell over 20 years ago, the abuses
and social maladies that persist are commonly linked to authoritarian
holdovers. These theoretical relationships seem likely to continue evolving.

One Brazilian think tank argues that if problems with crime, violence,
and public security institutions are not "addressed constructively, they

ultimately will undermine the stability and legitimacy of democratic government" (Braudel Institute of World Economics, 2003, p. 1). Democratic theory is not needed to conjure three reasons why Brazilian democracy may be threatened: First, police forces that act without accountability erode citizenship rights and undermine the rule of law. Second, without effective freedom, the quality of democracy can be eroded. Finally, when the formal institutions of democracy do not function fairly and effectively, the citizenry's faith in democracy fails. But as it happens, common sense coincides with democratic theory.

After the transition (the installation of a democratic government) the consolidation of democracy completes the process of democratization (Valenzuela, 1988). Though less is known about how consolidation happens, one framework provides three dimensions for conceptualizing it: attitudinal, procedural, and behavioral (Linz & Stepan, 1996). Police relate to these three areas as follows: The functioning of the public security and justice systems affects citizen perceptions of the worth of democracy (attitudinal), determines the efficacy of the rule of law (procedural), and influences how police, civil society, and uncivil society decide to resolve conflicts (behavioral). The three core police problems identified at the outset—ineffectiveness, corruption, and brutality—degrade citizenship, weaken the rule of law, and erode trust in democracy. Therefore, progress in police reform is essential to consolidating democracy.

There are institutional reasons for the problems with democratic consolidation in Brazil. The public security system often does not modernize or respond to democratic pressures, because police institutions, which are somewhat insulated from political and civil society everywhere, are especially insulated in the Brazilian case. Further, the ends demanded of the police are incompatible with police capacity and competence, not to mention their handicap of corruption, so there is little incentive for the police to take initiative in tackling internal problems on their own. The result is deadlock. The police may alleviate demands on the system by taking shortcuts or creating dead ends for certain citizens, but this also produces a type of disjunctive democracy—that is, a polity beset by unequal rights and citizenship (Holston & Caldeira, 1998). Institutional duplicity in the police deprives citizens of a fair and useable state, which is the bedrock of a consolidated democracy (Linz & Stepan, 1996). Therefore Brazilian democracy must deal with institutional problems and contradictions to create the effective, accountable police forces necessary for consolidation.

In addition, Brazil is at risk of developing a neofeudal system of citizen security, one that is privatized, spatially segmented, brutal, and subject to the vagaries of warring factions in and outside of the state. In a neofeudal system, nongovernmental organizations and international institutions like the International Monetary Fund consistently make demands of the state, even as the state is fractured and breached by corruption and loses territory to criminal elements. Sérgio Adorno writes: "The criminal justice system continues

to prove ineffective in containing violence within a democratic rule of law. Problems related to law and order have affected citizens' belief in the institutions of justice, instigating the not uncommon private solutions to conflict" (author's translation, Adorno, 2002, p. 1). The federal government of Brazil has not yet lost the monopoly on violence to the extent that Colombia's has, but the state's capacity to solve problems and respond to pressures from CSOs, ordinary citizens, human rights groups, and foreign investors is weak.

Democratization has not consistently led to improvements in the police of Brazil, and it seems that improvements in police institutions have yet to consolidate or deepen democracy on their own, though there are positive signs that civil society is engaging these issues with success. A major reason for stagnancy and backsliding is that Brazil, under democracy, has not done away with institutional duplicity and has not dismantled criminal networks that have their tentacles glued to the Brazilian state. The Brazilian state and its justice system go on functioning, but in some sense, informal and illegal activity give it the image of the emperor with no clothes, which the court's observers pretend not to see for the sake of keeping the court in order. Empty legal mandates risk becoming the imaginary threads of democracy with which the emperor cloaks himself. Achieving a more democratic model of policing in Brazil will require honest efforts to consolidate and unify Brazilian police institutions, facilitate cooperation, impose accountability, and bolster the legal mechanisms for achieving justice. It will also require tilting the balance of power in favor of the state and civil society and against the networks of criminality that corrupt and feed off it.

Notes

1. Though the problems with the police are myriad, corruption, brutality, and ineffectiveness stand out as the most severe and distinct. Dozens of prominent experts recently published a national plan for public security, "Projecto Segurança Pública para o Brasil" (from the *Instituto Cidadania* or Institute of Citizenship), which President Lula da Silva endorsed during his 2002 campaign. The report corroborates the above assessment, listing brutality (*práticas violentas*), corruption (*corrupção* and involvement with criminality), and ineffectiveness (actually, inefficiency) among the major problems facing the police, along with lack of public confidence (Institute of Citizenship, 2002).

2. "Institutional duplicity" is my invented term, but the notion is borrowed from Brazilian scholars of the police. Roberto Kant de Lima (1995), Domício Proença, Jr. (interview, 2004), and Jacqueline Muniz (1999; Muniz, interview, 2004), among others, have discussed this problem and are cited throughout this chapter. A crystallization of this phenomenon comes from three other experts, Lemgruber, Musumeci, and Cano (2003), when they observe that the difficulties in controlling the police of Brazil arise from the institutional context in which "on one side, there are laws and rules that formally delimit police action; on the other, there are arrangements and informal cultures that define the collection of practices through

which discretionary power is exercised on a daily basis" (p. 71, author's translation). Proença (2004) says more directly, "There is the way things are supposed to be done, and the way they are actually done."

3. Kant de Lima (1995, p. 1) describes something similar as the "Brazilian legal paradox": "In Brazil, a constitutionally egalitarian order is applied in a hierarchical way through the justice system. Different legal treatments are given for the same infractions, depending on the social or professional situation of the suspect. . . . Consequently, in clear disobedience of the law, the police judge cases and punish criminals."

4. The evidence from the democratizing world—Brazil, South Africa, Russia, Argentina, and Eastern Europe, for example—supports the pessimistic view that democracy does not bring better policing, but it is worth pointing out that these are merely correlations. In-depth studies are the best way to arrive at answers about causality.

5. The term "consolidated" means the establishment of an effective and functioning democracy that citizens have become accustomed to and accept as the "the only game in town"; "deeper" democracy implies effective improvements in rights and liberties, accountability, participation, and equality.

6. By 1998, there were four proposals to reform the police—from Fernando Henrique Cardoso, Mário Covas (former São Paulo governor), Hélio Bicudo, and Zulaie Cobra Ribeiro—all to separate the PM from the military or to change their duties. None of the constitutional amendments were voted on. Rather, in February 1998, the National Congress approved Amendment 18/1998 establishing the PM as "militaries of the states" and reinforcing their military status, making it more difficult to reform the public security system.

7. The customary translation for *polícia militar* is "military police." Hearing the term, many foreigners might mistake the PM for the police of the military (*polícia do exército*) or erroneously conclude that the PM are part of the military. Though the PM were made subordinate to the army during the military dictatorship (1964–1985), and though they remain a "reserve" of the army and maintain barracks and military training, these state police forces are not nationally unified and are functionally and institutionally separate from the military. The PM forces grew out of a separate tradition of state military forces, much in the way the states in the United States had state guards and militias before there was a regular federal army. Thus, a better translation would be the "*militarized* police." However, for the sake of convention, I will also refer to them as the "military police" or more often simply the "PM," which is their common moniker in Portuguese.

8. 1998 Constitution, Article 144, paragraph 6.

9. This observation about military behavior is relevant, because historically, minor disciplinary infractions have been more severely punished than have infractions involving the use of excessive force to detain a suspect. For example, skipping the chain of command in a simple administrative process is a serious offense to authority. As for discipline, appearing with even a too-large mustache would be seen as flippant or negligent and also an offense to immediate supervisors.

10. The ranks are, in order from lowest to highest: soldado; cabo; first, second, and third sargento; subtenente; first and second tenente; capitão; major; tenente-coronel; and coronel.

11. Perhaps out of institutional envy, the PC does maintain a visible fleet of patrol vehicles (*viaturas*), which are painted and bear institutional emblems and

sirens. Some argue that by increasing the number of visible police vehicles, the PC is making citizens feel safer; others argue that it more appropriate for these investigative police officers to use under-cover vehicles, in essence suggesting that the PC is sacrificing effectiveness for pride or public appearances. Whatever the case, this demonstrates that it is not entirely accurate to say that the PC does not do ostensive policing. On paper they are supposed to take investigative action on the orders from the Ministério Público. I have personally taken part in "blitzes" or random traffic stops with the PC and can attest that they were supremely ostensive actions and not investigative.

12. Jane's data most likely included the Federal Highway Police. The number of 8,000 updates the number of 7,000 from da Silva Filho's research (2000) and draws on the best estimates from various other experts (Benedito, interview, 2004; Proença, interview, 2004; de Souza Leal, interview, 2004).

13. The number of municipal guard forces may be as many as 400, according to The Braudel Institute of World Economics (2003). The estimate of 357 comes from Athias (2003).

14. Their numbers—600,000 together—make the state forces the most important law enforcement agencies: The combined federal police number about 16,000 and are extremely overextended in terms of responsibilities and territory. (This percentage calculation, however, does not include municipal guards, public defense forces [bombeiros], or military personnel, to be discussed later.)

15. Article 144, section 6 makes the police subordinate to both the military and state governors: "The Military Police and the *Corpos de Bombeiros Militares* [military firefighters and public defense force], being auxiliary and reserve forces of the Army, are subordinated, along with the Civil Police, to the governors of the states."

16. "The Union [federal government] shall have the exclusive right to legislate on: . . . general norms of organization, troops, military supplies, calling up and mobilizing the PM and Bombeiros [firefighters and rescue squads]" (Article 22, section 21).

17. The states included São Paulo, Rio Grande do Sul, Paraná, Rio de Janeiro, Espírito Santo, Minas Gerais, Bahia, Pernambuco, Paraíba, Rio Grande do Norte, Pará, Amazonas, Ceará, Goiás, and Sergipe (Mariano, interview, 2004).

18. Research conducted in 1987 by the Human Rights Center Santos Dias of the São Paulo archdiocese analyzed 380 cases. They found that officers were absolved in 90 percent of cases in the first category, while officers were punished in 85 percent of cases in the second category.

19. Law Decree 9,299 was passed in 1996 after being proposed by human rights advocates, most notably a federal deputy (congressman) from São Paulo, Hélio Bicudo. Originally the bill called for all crimes against the person to be transferred to the civil court system instead of the military courts (*Tribunal Justiça Militar*) but this definition was limited to ensure passage.

20. Law Decree 9,455, approved by Congress on April 7, 1997, almost 10 years after the country had redemocratized and signed international human rights treaties.

21. For instance, the Ford Foundation helped two universities in Rio de Janeiro develop courses on public security for members of the PM; new recruits and young officers take classes with other students. Federal universities in the states of Minas Gerais and Pernambuco, among others, have also developed coursework along these lines.

22. This analysis is mirrored in the *Projecto* to which President Lula ascribed: "Therefore, the path of the vicious cycle is painfully obvious: lack of investigation, lack of confidence, lack of information" (Institute of Citizenship, 2002, p. 33). It also

cites the "impossibility of applying rational public policies," which in turn leads to "public distrust, generating underreporting of crimes, which contributes to reduced investigative efficiency" (p. 36).

23. *Para inglês ver* translates typically as "for the English to see"; in colloquial terms it is an official mendacity for the sake of appearances, often to seem modern.

24. As Luiz Eduardo Soares, noted anthropologist and former national secretary for public security (SENASP), argued, "Random brutality is the easiest and strongest way for bad cops to impose their own conditions on the [drug] traffickers" (Soares, 2000).

25. See de Araujo Evangelista (2003). Police allow the gambling to persist probably because, as a lottery that is not state-sponsored, it seems like a petty and unstoppable crime, but it can become quite serious for a few reasons: First, police also take a cut of the profits. Interestingly, it is the PC that usually receives the payoffs, and the PM does not. Hence, the illegal betting can generate more friction between the two police forces than between police and criminal organizations. Second, the profits can go to fund political corruption at higher levels. Third, these numbers rackets can grow into larger criminal organizations.

26. Some have called the rise of uncivil society the "dark side" of democratization, because "an inexorable shadow of uncivil society follows the strengthening of civil society" (Pinheiro, 2000, p. 121). Others consider it the result of globalization, reasoning that "organized crimes such as smuggling, drugs, and trafficking in prostitution and children" have fed its growth (Mittelman & Johnston, 1999, p. 119).

27. See also Shelley (1995) and Williams (1994).

28. See Huggins (1998), pp. 136–140. More broadly, Pinheiro writes: "All classes of vigilantes in several Brazilian cities exist, in a certain way, as a continuation of the death squads and other repressive clandestine organizations and practices that prevailed during the dictatorship" (2000, p. 121).

29. This case is very much a conflict. Following a congressional investigation, Brazilian civil society actors, including human rights groups, the very influential Brazilian Bar Association (OAB), and unions, formed a movement to react against organized crime and serious human rights violations. Numerous members of this movement received death threats, and one attorney was killed on April 15, 2002 (Global Justice, 2002).

30. These states include Rio de Janeiro, Rio Grande do Sul, Santa Catarina, São Paulo, Espirito Santo, Bahia, Pernambuco, Rio Grande do Norte, Ceará, Pará, Acre, Maranhão, and the Federal District (de Mesquita Neto, 1999).

31. One research institute claims that a Public Security Forum formed in the São Paulo suburb of Diadema helped reduce the number of homicides by half in that extremely violent periphery (Braudel Institute of World Economics, 2003).

32. For instance, only 61 percent actually have firearms, and 77 percent have phone lines and vehicles, all of which seem essential for police work; in terms of helpful items, only 13 percent have a fax machine, and 12 percent have a copy machine.

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